

113TH CONGRESS  
2D SESSION

# H. R. 4275

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide for cooperative and small employer charity pension plans.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 2014

Mrs. BROOKS of Indiana (for herself and Mr. KIND) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide for cooperative and small employer charity pension plans.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Cooperative and Small Employer Charity Pension Flexi-  
6 bility Act”.

1 (b) TABLE OF CONTENTS.—The table of contents of  
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Congressional findings and declarations of policy.
- Sec. 3. Effective date.

TITLE I—AMENDMENTS TO EMPLOYEE RETIREMENT INCOME  
 SECURITY ACT OF 1974 AND OTHER PROVISIONS

- Sec. 101. Definition of cooperative and small employer charity pension plans.
- Sec. 102. Funding rules applicable to cooperative and small employer charity pension plans.
- Sec. 103. Elections.
- Sec. 104. Transparency.
- Sec. 105. Sponsor education and assistance.

TITLE II—AMENDMENTS TO INTERNAL REVENUE CODE OF 1986

- Sec. 201. Definition of cooperative and small employer charity pension plans.
- Sec. 202. Funding rules applicable to cooperative and small employer charity pension plans.
- Sec. 203. Election not to be treated as a CSEC plan.

3 **SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATIONS OF**  
 4 **POLICY.**

5 Congress finds as follows:

- 6 (1) Defined benefit pension plans are a cost-ef-  
 7 fective way for cooperative associations and charities  
 8 to provide their employees with economic security in  
 9 retirement.
- 10 (2) Many cooperative associations and chari-  
 11 table organizations are only able to provide their em-  
 12 ployees with defined benefit pension plans because  
 13 those organizations are able to pool their resources  
 14 using the multiple employer plan structure.

1           (3) The pension funding rules should encourage  
 2           cooperative associations and charities to continue to  
 3           provide their employees with pension benefits.

4 **SEC. 3. EFFECTIVE DATE.**

5           Unless otherwise specified in this Act, the provisions  
 6 of this Act shall apply to years beginning after December  
 7 31, 2013.

8 **TITLE I—AMENDMENTS TO EM-**  
 9 **PLOYEE RETIREMENT IN-**  
 10 **COME SECURITY ACT OF 1974**  
 11 **AND OTHER PROVISIONS**

12 **SEC. 101. DEFINITION OF COOPERATIVE AND SMALL EM-**  
 13 **PLOYER CHARITY PENSION PLANS.**

14           Section 210 of the Employee Retirement Income Se-  
 15 curity Act of 1974 (29 U.S.C. 1060) is amended by adding  
 16 at the end the following new subsection:

17           “(f) COOPERATIVE AND SMALL EMPLOYER CHARITY  
 18 PENSION PLANS.—

19           “(1) IN GENERAL.—For purposes of this title,  
 20 except as provided in this subsection, a CSEC plan  
 21 is an employee pension benefit plan (other than a  
 22 multiemployer plan) that is a defined benefit plan—

23           “(A) to which section 104 of the Pension  
 24 Protection Act of 2006 applies, without regard  
 25 to—

1 “(i) section 104(a)(2) of such Act;

2 “(ii) the amendments to such section  
3 104 by section 202(b) of the Preservation  
4 of Access to Care for Medicare Bene-  
5 ficiaries and Pension Relief Act of 2010;  
6 and

7 “(iii) paragraph (3)(B); or

8 “(B) that, as of June 25, 2010, was main-  
9 tained by more than one employer and all of the  
10 employers were organizations described in sec-  
11 tion 501(c)(3) of the Internal Revenue Code of  
12 1986.

13 “(2) AGGREGATION.—All employers that are  
14 treated as a single employer under subsection (b) or  
15 (c) of section 414 of the Internal Revenue Code of  
16 1986 shall be treated as a single employer for pur-  
17 poses of determining if a plan was maintained by  
18 more than one employer under paragraph (1)(B).”.

19 **SEC. 102. FUNDING RULES APPLICABLE TO COOPERATIVE**  
20 **AND SMALL EMPLOYER CHARITY PENSION**  
21 **PLANS.**

22 (a) IN GENERAL.—Part 3 of title I of the Employee  
23 Retirement Income Security Act of 1974 (29 U.S.C. 1081  
24 et seq.) is amended by adding at the end the following  
25 new section:

1 **“SEC. 306. MINIMUM FUNDING STANDARDS.**

2       “(a) GENERAL RULE.—For purposes of section 302,  
3 the term ‘accumulated funding deficiency’ for a CSEC  
4 plan means the excess of the total charges to the funding  
5 standard account for all plan years (beginning with the  
6 first plan year to which section 302 applies) over the total  
7 credits to such account for such years or, if less, the excess  
8 of the total charges to the alternative minimum funding  
9 standard account for such plan years over the total credits  
10 to such account for such years.

11       “(b) FUNDING STANDARD ACCOUNT.—

12               “(1) ACCOUNT REQUIRED.—Each plan to which  
13 this section applies shall establish and maintain a  
14 funding standard account. Such account shall be  
15 credited and charged solely as provided in this sec-  
16 tion.

17               “(2) CHARGES TO ACCOUNT.—For a plan year,  
18 the funding standard account shall be charged with  
19 the sum of—

20                       “(A) the normal cost of the plan for the  
21 plan year,

22                       “(B) the amounts necessary to amortize in  
23 equal annual installments (until fully amor-  
24 tized)—

25                               “(i) in the case of a plan in existence  
26 on January 1, 1974, the unfunded past

1 service liability under the plan on the first  
2 day of the first plan year to which section  
3 302 applies, over a period of 40 plan years,

4 “(ii) in the case of a plan which comes  
5 into existence after January 1, 1974, but  
6 before the first day of the first plan year  
7 beginning after December 31, 2013, the  
8 unfunded past service liability under the  
9 plan on the first day of the first plan year  
10 to which section 302 applies, over a period  
11 of 30 plan years,

12 “(iii) separately, with respect to each  
13 plan year, the net increase (if any) in un-  
14 funded past service liability under the plan  
15 arising from plan amendments adopted in  
16 such year, over a period of 15 plan years,

17 “(iv) separately, with respect to each  
18 plan year, the net experience loss (if any)  
19 under the plan, over a period of 5 plan  
20 years, and

21 “(v) separately, with respect to each  
22 plan year, the net loss (if any) resulting  
23 from changes in actuarial assumptions  
24 used under the plan, over a period of 10  
25 plan years,

1           “(C) the amount necessary to amortize  
2           each waived funding deficiency (within the  
3           meaning of section 302(c)(3)) for each prior  
4           plan year in equal annual installments (until  
5           fully amortized) over a period of 5 plan years,

6           “(D) the amount necessary to amortize in  
7           equal annual installments (until fully amor-  
8           tized) over a period of 5 plan years any amount  
9           credited to the funding standard account under  
10          paragraph (3)(D), and

11          “(E) the amount necessary to amortize in  
12          equal annual installments (until fully amor-  
13          tized) over a period of 20 years the contribu-  
14          tions which would be required to be made under  
15          the plan but for the provisions of section  
16          302(c)(7)(A)(i)(I) (as in effect on the day be-  
17          fore the enactment of the Pension Protection  
18          Act of 2006).

19          “(3) CREDITS TO ACCOUNT.—For a plan year,  
20          the funding standard account shall be credited with  
21          the sum of—

22                 “(A) the amount considered contributed by  
23                 the employer to or under the plan for the plan  
24                 year,

1 “(B) the amount necessary to amortize in  
2 equal annual installments (until fully amor-  
3 tized)—

4 “(i) separately, with respect to each  
5 plan year, the net decrease (if any) in un-  
6 funded past service liability under the plan  
7 arising from plan amendments adopted in  
8 such year, over a period of 15 plan years,

9 “(ii) separately, with respect to each  
10 plan year, the net experience gain (if any)  
11 under the plan, over a period of 5 plan  
12 years, and

13 “(iii) separately, with respect to each  
14 plan year, the net gain (if any) resulting  
15 from changes in actuarial assumptions  
16 used under the plan, over a period of 10  
17 plan years,

18 “(C) the amount of the waived funding de-  
19 ficiency (within the meaning of section  
20 302(c)(3)) for the plan year, and

21 “(D) in the case of a plan year for which  
22 the accumulated funding deficiency is deter-  
23 mined under the funding standard account if  
24 such plan year follows a plan year for which  
25 such deficiency was determined under the alter-



1 native minimum funding standard, the excess  
2 (if any) of any debit balance in the funding  
3 standard account (determined without regard to  
4 this subparagraph) over any debit balance in  
5 the alternative minimum funding standard ac-  
6 count.

7 “(4) COMBINING AND OFFSETTING AMOUNTS  
8 TO BE AMORTIZED.—Under regulations prescribed  
9 by the Secretary of the Treasury, amounts required  
10 to be amortized under paragraph (2) or paragraph  
11 (3), as the case may be—

12 “(A) may be combined into one amount  
13 under such paragraph to be amortized over a  
14 period determined on the basis of the remaining  
15 amortization period for all items entering into  
16 such combined amount, and

17 “(B) may be offset against amounts re-  
18 quired to be amortized under the other such  
19 paragraph, with the resulting amount to be am-  
20 ortized over a period determined on the basis of  
21 the remaining amortization periods for all items  
22 entering into whichever of the two amounts  
23 being offset is the greater.

24 “(5) INTEREST.—

1           “(A) IN GENERAL.—Except as provided in  
2           subparagraph (B), the funding standard ac-  
3           count (and items therein) shall be charged or  
4           credited (as determined under regulations pre-  
5           scribed by the Secretary of the Treasury) with  
6           interest at the appropriate rate consistent with  
7           the rate or rates of interest used under the plan  
8           to determine costs.

9           “(B) EXCEPTION.—The interest rate used  
10          for purposes of computing the amortization  
11          charge described in subsection (b)(2)(C) or for  
12          purposes of any arrangement under subsection  
13          (d) for any plan year shall be the greater of—

14               “(i) 150 percent of the Federal mid-  
15               term rate (as in effect under section 1274  
16               of the Internal Revenue Code of 1986 for  
17               the 1st month of such plan year), or

18               “(ii) the rate of interest determined  
19               under subparagraph (A).

20          “(6) AMORTIZATION SCHEDULES IN EFFECT.—  
21          Amortization schedules for amounts described in  
22          paragraphs (2) and (3) that are in effect as of the  
23          last day of the last plan year beginning before Janu-  
24          ary 1, 2014, by reason of section 104 of the Pension  
25          Protection Act of 2006 shall remain in effect pursu-

1 ant to their terms and this section, except that such  
2 amounts shall not be amortized again under this sec-  
3 tion.

4 “(c) SPECIAL RULES.—

5 “(1) DETERMINATIONS TO BE MADE UNDER  
6 FUNDING METHOD.—For purposes of this section,  
7 normal costs, accrued liability, past service liabilities,  
8 and experience gains and losses shall be determined  
9 under the funding method used to determine costs  
10 under the plan.

11 “(2) VALUATION OF ASSETS.—

12 “(A) IN GENERAL.—For purposes of this  
13 section, the value of the plan’s assets shall be  
14 determined on the basis of any reasonable actu-  
15 arial method of valuation which takes into ac-  
16 count fair market value and which is permitted  
17 under regulations prescribed by the Secretary of  
18 the Treasury.

19 “(B) DEDICATED BOND PORTFOLIO.—The  
20 Secretary of the Treasury may by regulations  
21 provide that the value of any dedicated bond  
22 portfolio of a plan shall be determined by using  
23 the interest rate under section 302(b)(5) (as in  
24 effect on the day before the enactment of the  
25 Pension Protection Act of 2006).

1           “(3) ACTUARIAL ASSUMPTIONS MUST BE REA-  
2       SONABLE.—For purposes of this section, all costs, li-  
3       abilities, rates of interest, and other factors under  
4       the plan shall be determined on the basis of actu-  
5       arial assumptions and methods—

6           “(A) each of which is reasonable (taking  
7       into account the experience of the plan and rea-  
8       sonable expectations), and

9           “(B) which, in combination, offer the actu-  
10      ary’s best estimate of anticipated experience  
11      under the plan.

12          “(4) TREATMENT OF CERTAIN CHANGES AS EX-  
13      PERIENCE GAIN OR LOSS.—For purposes of this sec-  
14      tion, if—

15          “(A) a change in benefits under the Social  
16      Security Act or in other retirement benefits cre-  
17      ated under Federal or State law, or

18          “(B) a change in the definition of the term  
19      ‘wages’ under section 3121 of the Internal Rev-  
20      enue Code of 1986 or a change in the amount  
21      of such wages taken into account under regula-  
22      tions prescribed for purposes of section  
23      401(a)(5) of such Code,

1 results in an increase or decrease in accrued liability  
2 under a plan, such increase or decrease shall be  
3 treated as an experience loss or gain.

4 “(5) FUNDING METHOD AND PLAN YEAR.—

5 “(A) FUNDING METHODS AVAILABLE.—All  
6 funding methods available to CSEC plans under  
7 section 302 (as in effect on the day before the  
8 enactment of the Pension Protection Act of  
9 2006) shall continue to be available under this  
10 section.

11 “(B) CHANGES.—If the funding method  
12 for a plan is changed, the new funding method  
13 shall become the funding method used to deter-  
14 mine costs and liabilities under the plan only if  
15 the change is approved by the Secretary of the  
16 Treasury. If the plan year for a plan is  
17 changed, the new plan year shall become the  
18 plan year for the plan only if the change is ap-  
19 proved by the Secretary of the Treasury.

20 “(C) APPROVAL REQUIRED FOR CERTAIN  
21 CHANGES IN ASSUMPTIONS BY CERTAIN SIN-  
22 GLE-EMPLOYER PLANS SUBJECT TO ADDI-  
23 TIONAL FUNDING REQUIREMENT.—

24 “(i) IN GENERAL.—No actuarial as-  
25 sumption (other than the assumptions de-

scribed in subsection (h)(3)) used to determine the current liability for a plan to which this subparagraph applies may be changed without the approval of the Secretary of the Treasury.

“(ii) PLANS TO WHICH SUBPARAGRAPH APPLIES.—This subparagraph shall apply to a plan only if—

“(I) the plan is a CSEC plan,

“(II) the aggregate unfunded vested benefits as of the close of the preceding plan year (as determined under section 4006(a)(3)(E)(iii)) of such plan and all other plans maintained by the contributing sponsors (as defined in section 4001(a)(13)) and members of such sponsors’ controlled groups (as defined in section 4001(a)(14)) which are covered by title IV (disregarding plans with no unfunded vested benefits) exceed \$50,000,000, and

“(III) the change in assumptions (determined after taking into account any changes in interest rate and mor-

1                   tality table) results in a decrease in  
2                   the funding shortfall of the plan for  
3                   the current plan year that exceeds  
4                   \$50,000,000, or that exceeds  
5                   \$5,000,000 and that is 5 percent or  
6                   more of the current liability of the  
7                   plan before such change.

8                   “(6) FULL FUNDING.—If, as of the close of a  
9                   plan year, a plan would (without regard to this para-  
10                  graph) have an accumulated funding deficiency (de-  
11                  termined without regard to the alternative minimum  
12                  funding standard account permitted under sub-  
13                  section (e)) in excess of the full funding limitation—

14                  “(A) the funding standard account shall be  
15                  credited with the amount of such excess, and

16                  “(B) all amounts described in paragraphs  
17                  (2)(B), (C), and (D) and (3)(B) of subsection  
18                  (b) which are required to be amortized shall be  
19                  considered fully amortized for purposes of such  
20                  paragraphs.

21                  “(7) FULL-FUNDING LIMITATION.—For pur-  
22                  poses of paragraph (6), the term ‘full-funding limita-  
23                  tion’ means the excess (if any) of—

24                  “(A) the accrued liability (including nor-  
25                  mal cost) under the plan (determined under the

1 entry age normal funding method if such ac-  
2 crued liability cannot be directly calculated  
3 under the funding method used for the plan),  
4 over

5 “(B) the lesser of—

6 “(i) the fair market value of the  
7 plan’s assets, or

8 “(ii) the value of such assets deter-  
9 mined under paragraph (2).

10 “(C) MINIMUM AMOUNT.—

11 “(i) IN GENERAL.—In no event shall  
12 the full-funding limitation determined  
13 under subparagraph (A) be less than the  
14 excess (if any) of—

15 “(I) 90 percent of the current li-  
16 ability (determined without regard to  
17 paragraph (4) of subsection (h)) of  
18 the plan (including the expected in-  
19 crease in such current liability due to  
20 benefits accruing during the plan  
21 year), over

22 “(II) the value of the plan’s as-  
23 sets determined under paragraph (2).

24 “(ii) ASSETS.—For purposes of clause  
25 (i), assets shall not be reduced by any



1 credit balance in the funding standard ac-  
2 count.

3 “(8) ANNUAL VALUATION.—

4 “(A) IN GENERAL.—For purposes of this  
5 section, a determination of experience gains and  
6 losses and a valuation of the plan’s liability  
7 shall be made not less frequently than once  
8 every year, except that such determination shall  
9 be made more frequently to the extent required  
10 in particular cases under regulations prescribed  
11 by the Secretary of the Treasury.

12 “(B) VALUATION DATE.—

13 “(i) CURRENT YEAR.—Except as pro-  
14 vided in clause (ii), the valuation referred  
15 to in subparagraph (A) shall be made as of  
16 a date within the plan year to which the  
17 valuation refers or within one month prior  
18 to the beginning of such year.

19 “(ii) USE OF PRIOR YEAR VALU-  
20 ATION.—The valuation referred to in sub-  
21 paragraph (A) may be made as of a date  
22 within the plan year prior to the year to  
23 which the valuation refers if, as of such  
24 date, the value of the assets of the plan are

1 not less than 100 percent of the plan's cur-  
 2 rent liability.

3 “(iii) ADJUSTMENTS.—Information  
 4 under clause (ii) shall, in accordance with  
 5 regulations, be actuarially adjusted to re-  
 6 flect significant differences in participants.

7 “(iv) LIMITATION.—A change in fund-  
 8 ing method to use a prior year valuation,  
 9 as provided in clause (ii), may not be made  
 10 unless as of the valuation date within the  
 11 prior plan year, the value of the assets of  
 12 the plan are not less than 125 percent of  
 13 the plan's current liability.

14 “(9) TIME WHEN CERTAIN CONTRIBUTIONS  
 15 DEEMED MADE.—For purposes of this section, any  
 16 contributions for a plan year made by an employer  
 17 during the period—

18 “(A) beginning on the day after the last  
 19 day of such plan year, and

20 “(B) ending on the day which is 8½  
 21 months after the close of the plan year,

22 shall be deemed to have been made on such last day.

23 “(10) ANTICIPATION OF BENEFIT INCREASES  
 24 EFFECTIVE IN THE FUTURE.—In determining pro-  
 25 jected benefits, the funding method of a collectively

1       bargained CSEC plan described in section 413(a) of  
2       the Internal Revenue Code of 1986 shall anticipate  
3       benefit increases scheduled to take effect during the  
4       term of the collective bargaining agreement applica-  
5       ble to the plan.

6       “(d) EXTENSION OF AMORTIZATION PERIODS.—The  
7       period of years required to amortize any unfunded liability  
8       (described in any clause of subsection (b)(2)(B)) of any  
9       plan may be extended by the Secretary of the Treasury  
10      for a period of time (not in excess of 10 years) if such  
11      Secretary determines that such extension would carry out  
12      the purposes of this Act and provide adequate protection  
13      for participants under the plan and their beneficiaries, and  
14      if such Secretary determines that the failure to permit  
15      such extension would result in—

16               “(1) a substantial risk to the voluntary continu-  
17              ation of the plan, or

18               “(2) a substantial curtailment of pension ben-  
19              efit levels or employee compensation.

20       “(e) ALTERNATIVE MINIMUM FUNDING STAND-  
21      ARD.—

22               “(1) IN GENERAL.—A CSEC plan which uses a  
23              funding method that requires contributions in all  
24              years not less than those required under the entry  
25              age normal funding method may maintain an alter-

1 native minimum funding standard account for any  
2 plan year. Such account shall be credited and  
3 charged solely as provided in this subsection.

4 “(2) CHARGES AND CREDITS TO ACCOUNT.—  
5 For a plan year the alternative minimum funding  
6 standard account shall be—

7 “(A) charged with the sum of—

8 “(i) the lesser of normal cost under  
9 the funding method used under the plan or  
10 normal cost determined under the unit  
11 credit method,

12 “(ii) the excess, if any, of the present  
13 value of accrued benefits under the plan  
14 over the fair market value of the assets,  
15 and

16 “(iii) an amount equal to the excess  
17 (if any) of credits to the alternative min-  
18 imum standard account for all prior plan  
19 years over charges to such account for all  
20 such years, and

21 “(B) credited with the amount considered  
22 contributed by the employer to or under the  
23 plan for the plan year.

24 “(3) INTEREST.—The alternative minimum  
25 funding standard account (and items therein) shall

1 be charged or credited with interest in the manner  
2 provided under subsection (b)(5) with respect to the  
3 funding standard account.

4 “(f) QUARTERLY CONTRIBUTIONS REQUIRED.—

5 “(1) IN GENERAL.—If a CSEC plan which has  
6 a funded current liability percentage for the pre-  
7 ceding plan year of less than 100 percent fails to  
8 pay the full amount of a required installment for the  
9 plan year, then the rate of interest charged to the  
10 funding standard account under subsection (b)(5)  
11 with respect to the amount of the underpayment for  
12 the period of the underpayment shall be equal to the  
13 greater of—

14 “(A) 175 percent of the Federal mid-term  
15 rate (as in effect under section 1274 of the In-  
16 ternal Revenue Code of 1986 for the 1st month  
17 of such plan year), or

18 “(B) the rate of interest used under the  
19 plan in determining costs.

20 “(2) AMOUNT OF UNDERPAYMENT, PERIOD OF  
21 UNDERPAYMENT.—For purposes of paragraph (1)—

22 “(A) AMOUNT.—The amount of the under-  
23 payment shall be the excess of—

24 “(i) the required installment, over

1 “(ii) the amount (if any) of the in-  
 2 stallment contributed to or under the plan  
 3 on or before the due date for the install-  
 4 ment.

5 “(B) PERIOD OF UNDERPAYMENT.—The  
 6 period for which interest is charged under this  
 7 subsection with regard to any portion of the un-  
 8 derpayment shall run from the due date for the  
 9 installment to the date on which such portion is  
 10 contributed to or under the plan (determined  
 11 without regard to subsection (c)(9)).

12 “(C) ORDER OF CREDITING CONTRIBU-  
 13 TIONS.—For purposes of subparagraph (A)(ii),  
 14 contributions shall be credited against unpaid  
 15 required installments in the order in which such  
 16 installments are required to be paid.

17 “(3) NUMBER OF REQUIRED INSTALLMENTS;  
 18 DUE DATES.—For purposes of this subsection—

19 “(A) PAYABLE IN 4 INSTALLMENTS.—  
 20 There shall be 4 required installments for each  
 21 plan year.

22 “(B) TIME FOR PAYMENT OF INSTALL-  
 23 MENTS.—

**“In the case of the following  
 required installments:**

**The due date is:**

1st .....

April 15

**“In the case of the following  
required installments:****The due date is:**

2nd .....	July 15
3rd .....	October 15
4th .....	January 15 of the following year.

1           “(4) AMOUNT OF REQUIRED INSTALLMENT.—

2           For purposes of this subsection—

3                   “(A) IN GENERAL.—The amount of any  
4           required installment shall be 25 percent of the  
5           required annual payment.

6                   “(B) REQUIRED ANNUAL PAYMENT.—For  
7           purposes of subparagraph (A), the term ‘re-  
8           quired annual payment’ means the lesser of—

9                           “(i) 90 percent of the amount re-  
10           quired to be contributed to or under the  
11           plan by the employer for the plan year  
12           under section 302 (without regard to any  
13           waiver under subsection (c) thereof), or

14                           “(ii) 100 percent of the amount so re-  
15           quired for the preceding plan year.

16           Clause (ii) shall not apply if the preceding plan  
17           year was not a year of 12 months.

18           “(5) LIQUIDITY REQUIREMENT.—

19                   “(A) IN GENERAL.—A plan to which this  
20           paragraph applies shall be treated as failing to  
21           pay the full amount of any required installment  
22           to the extent that the value of the liquid assets

1       paid in such installment is less than the liquid-  
2       ity shortfall (whether or not such liquidity  
3       shortfall exceeds the amount of such install-  
4       ment required to be paid but for this para-  
5       graph).

6               “(B) PLANS TO WHICH PARAGRAPH AP-  
7       PLIES.—This paragraph shall apply to a CSEC  
8       plan other than a plan described in section  
9       302(d)(6)(A) (as in effect on the day before the  
10      enactment of the Pension Protection Act of  
11      2006) which—

12              “(i) is required to pay installments  
13              under this subsection for a plan year, and

14              “(ii) has a liquidity shortfall for any  
15              quarter during such plan year.

16               “(C) PERIOD OF UNDERPAYMENT.—For  
17       purposes of paragraph (1), any portion of an  
18       installment that is treated as not paid under  
19       subparagraph (A) shall continue to be treated  
20       as unpaid until the close of the quarter in  
21       which the due date for such installment occurs.

22               “(D) LIMITATION ON INCREASE.—If the  
23       amount of any required installment is increased  
24       by reason of subparagraph (A), in no event  
25       shall such increase exceed the amount which,



1           when added to prior installments for the plan  
2           year, is necessary to increase the funded cur-  
3           rent liability percentage (taking into account  
4           the expected increase in current liability due to  
5           benefits accruing during the plan year) to 100  
6           percent.

7                   “(E) DEFINITIONS.—For purposes of this  
8           paragraph—

9                           “(i) LIQUIDITY SHORTFALL.—The  
10                          term ‘liquidity shortfall’ means, with re-  
11                          spect to any required installment, an  
12                          amount equal to the excess (as of the last  
13                          day of the quarter for which such install-  
14                          ment is made) of the base amount with re-  
15                          spect to such quarter over the value (as of  
16                          such last day) of the plan’s liquid assets.

17                           “(ii) BASE AMOUNT.—

18                                   “(I) IN GENERAL.—The term  
19                                  ‘base amount’ means, with respect to  
20                                  any quarter, an amount equal to 3  
21                                  times the sum of the adjusted dis-  
22                                  bursements from the plan for the 12  
23                                  months ending on the last day of such  
24                                  quarter.

1                   “(II) SPECIAL RULE.—If the  
2                   amount determined under subclause  
3                   (I) exceeds an amount equal to 2  
4                   times the sum of the adjusted dis-  
5                   bursements from the plan for the 36  
6                   months ending on the last day of the  
7                   quarter and an enrolled actuary cer-  
8                   tifies to the satisfaction of the Sec-  
9                   retary of the Treasury that such ex-  
10                  cess is the result of nonrecurring cir-  
11                  cumstances, the base amount with re-  
12                  spect to such quarter shall be deter-  
13                  mined without regard to amounts re-  
14                  lated to those nonrecurring cir-  
15                  cumstances.

16                  “(iii) DISBURSEMENTS FROM THE  
17                  PLAN.—The term ‘disbursements from the  
18                  plan’ means all disbursements from the  
19                  trust, including purchases of annuities,  
20                  payments of single sums and other bene-  
21                  fits, and administrative expenses.

22                  “(iv) ADJUSTED DISBURSEMENTS.—  
23                  The term ‘adjusted disbursements’ means  
24                  disbursements from the plan reduced by  
25                  the product of—

1                   “(I) the plan’s funded current li-  
2                   ability percentage for the plan year,  
3                   and

4                   “(II) the sum of the purchases of  
5                   annuities, payments of single sums,  
6                   and such other disbursements as the  
7                   Secretary of the Treasury shall pro-  
8                   vide in regulations.

9                   “(v) LIQUID ASSETS.—The term ‘liq-  
10                  uid assets’ means cash, marketable securi-  
11                  ties and such other assets as specified by  
12                  the Secretary of the Treasury in regula-  
13                  tions.

14                  “(vi) QUARTER.—The term ‘quarter’  
15                  means, with respect to any required install-  
16                  ment, the 3-month period preceding the  
17                  month in which the due date for such in-  
18                  stallment occurs.

19                  “(F) REGULATIONS.—The Secretary of the  
20                  Treasury may prescribe such regulations as are  
21                  necessary to carry out this paragraph.

22                  “(6) FISCAL YEARS AND SHORT YEARS.—

23                  “(A) FISCAL YEARS.—In applying this  
24                  subsection to a plan year beginning on any date  
25                  other than January 1, there shall be substituted

1           for the months specified in this subsection, the  
2           months which correspond thereto.

3           “(B) SHORT PLAN YEAR.—This subsection  
4           shall be applied to plan years of less than 12  
5           months in accordance with regulations pre-  
6           scribed by the Secretary of the Treasury.

7           “(g) IMPOSITION OF LIEN WHERE FAILURE TO  
8           MAKE REQUIRED CONTRIBUTIONS.—

9           “(1) IN GENERAL.—In the case of a plan to  
10          which this section applies, if—

11           “(A) any person fails to make a required  
12           installment under subsection (f) or any other  
13           payment required under this section before the  
14           due date for such installment or other payment,  
15           and

16           “(B) the unpaid balance of such install-  
17           ment or other payment (including interest),  
18           when added to the aggregate unpaid balance of  
19           all preceding such installments or other pay-  
20           ments for which payment was not made before  
21           the due date (including interest), exceeds  
22           \$1,000,000,

23          then there shall be a lien in favor of the plan in the  
24          amount determined under paragraph (3) upon all  
25          property and rights to property, whether real or per-

sonal, belonging to such person and any other person who is a member of the same controlled group of which such person is a member.

“(2) PLANS TO WHICH SUBSECTION APPLIES.—

This subsection shall apply to a CSEC plan for any plan year for which the funded current liability percentage of such plan is less than 100 percent. This subsection shall not apply to any plan to which section 4021 does not apply (as such section is in effect on the date of the enactment of the Retirement Protection Act of 1994).

“(3) AMOUNT OF LIEN.—For purposes of para-

graph (1), the amount of the lien shall be equal to the aggregate unpaid balance of required installments and other payments required under this section (including interest)—

“(A) for plan years beginning after 1987,

and

“(B) for which payment has not been made before the due date.

“(4) NOTICE OF FAILURE; LIEN.—

“(A) NOTICE OF FAILURE.—A person committing a failure described in paragraph (1) shall notify the Pension Benefit Guaranty Corporation of such failure within 10 days of the

1 due date for the required installment or other  
2 payment.

3 “(B) PERIOD OF LIEN.—The lien imposed  
4 by paragraph (1) shall arise on the due date for  
5 the required installment or other payment and  
6 shall continue until the last day of the first plan  
7 year in which the plan ceases to be described in  
8 paragraph (1)(B). Such lien shall continue to  
9 run without regard to whether such plan con-  
10 tinues to be described in paragraph (2) during  
11 the period referred to in the preceding sentence.

12 “(C) CERTAIN RULES TO APPLY.—Any  
13 amount with respect to which a lien is imposed  
14 under paragraph (1) shall be treated as taxes  
15 due and owing the United States and rules  
16 similar to the rules of subsections (c), (d), and  
17 (e) of section 4068 shall apply with respect to  
18 a lien imposed by subsection (a) and the  
19 amount with respect to such lien.

20 “(5) ENFORCEMENT.—Any lien created under  
21 paragraph (1) may be perfected and enforced only  
22 by the Pension Benefit Guaranty Corporation, or at  
23 the direction of the Pension Benefit Guaranty Cor-  
24 poration, by any contributing employer (or any

1 member of the controlled group of the contributing  
2 employer).

3 “(6) DEFINITIONS.—For purposes of this sub-  
4 section—

5 “(A) DUE DATE; REQUIRED INSTALL-  
6 MENT.—The terms ‘due date’ and ‘required in-  
7 stallment’ have the meanings given such terms  
8 by subsection (f), except that in the case of a  
9 payment other than a required installment, the  
10 due date shall be the date such payment is re-  
11 quired to be made under this section.

12 “(B) CONTROLLED GROUP.—The term  
13 ‘controlled group’ means any group treated as  
14 a single employer under subsections (b), (c),  
15 (m), and (o) of section 414 of the Internal Rev-  
16 enue Code of 1986.

17 “(h) CURRENT LIABILITY.—For purposes of this sec-  
18 tion—

19 “(1) IN GENERAL.—The term ‘current liability’  
20 means all liabilities to employees and their bene-  
21 ficiaries under the plan.

22 “(2) TREATMENT OF UNPREDICTABLE CONTIN-  
23 GENT EVENT BENEFITS.—

24 “(A) IN GENERAL.—For purposes of para-  
25 graph (1), any unpredictable contingent event

1 benefit shall not be taken into account until the  
 2 event on which the benefit is contingent occurs.

3 “(B) UNPREDICTABLE CONTINGENT  
 4 EVENT BENEFIT.—The term ‘unpredictable  
 5 contingent event benefit’ means any benefit  
 6 contingent on an event other than—

7 “(i) age, service, compensation, death,  
 8 or disability, or

9 “(ii) an event which is reasonably and  
 10 reliably predictable (as determined by the  
 11 Secretary of the Treasury).

12 “(3) INTEREST RATE AND MORTALITY ASSUMP-  
 13 TIONS USED.—

14 “(A) INTEREST RATE.—The rate of inter-  
 15 est used to determine current liability under  
 16 this section shall be the third segment rate de-  
 17 termined under section 303(h)(2)(C).

18 “(B) MORTALITY TABLES.—

19 “(i) SECRETARIAL AUTHORITY.—The  
 20 Secretary of the Treasury may by regula-  
 21 tion prescribe mortality tables to be used  
 22 in determining current liability under this  
 23 subsection. Such tables shall be based upon  
 24 the actual experience of pension plans and  
 25 projected trends in such experience. In pre-



1 scribing such tables, the Secretary of the  
2 Treasury shall take into account results of  
3 available independent studies of mortality  
4 of individuals covered by pension plans.

5 “(ii) PERIODIC REVIEW.—The Sec-  
6 retary of the Treasury shall periodically (at  
7 least every 5 years) review any tables in ef-  
8 fect under this subsection and shall, to the  
9 extent the Secretary of the Treasury deter-  
10 mines necessary, by regulation update the  
11 tables to reflect the actual experience of  
12 pension plans and projected trends in such  
13 experience.

14 “(C) SEPARATE MORTALITY TABLES FOR  
15 THE DISABLED.—Notwithstanding subpara-  
16 graph (B)—

17 “(i) IN GENERAL.—In the case of  
18 plan years beginning after December 31,  
19 1995, the Secretary of the Treasury shall  
20 establish mortality tables which may be  
21 used (in lieu of the tables under subpara-  
22 graph (B)) to determine current liability  
23 under this subsection for individuals who  
24 are entitled to benefits under the plan on  
25 account of disability. The Secretary of the

1 Treasury shall establish separate tables for  
2 individuals whose disabilities occur in plan  
3 years beginning before January 1, 1995,  
4 and for individuals whose disabilities occur  
5 in plan years beginning on or after such  
6 date.

7 “(ii) SPECIAL RULE FOR DISABILITIES  
8 OCCURRING AFTER 1994.—In the case of  
9 disabilities occurring in plan years begin-  
10 ning after December 31, 1994, the tables  
11 under clause (i) shall apply only with re-  
12 spect to individuals described in such sub-  
13 clause who are disabled within the meaning  
14 of title II of the Social Security Act and  
15 the regulations thereunder.

16 “(4) CERTAIN SERVICE DISREGARDED.—

17 “(A) IN GENERAL.—In the case of a par-  
18 ticipant to whom this paragraph applies, only  
19 the applicable percentage of the years of service  
20 before such individual became a participant  
21 shall be taken into account in computing the  
22 current liability of the plan.

23 “(B) APPLICABLE PERCENTAGE.—For  
24 purposes of this subparagraph, the applicable  
25 percentage shall be determined as follows:

<b>“If the years of participation are:</b>	<b>The applicable percentage is:</b>
1 .....	20
2 .....	40
3 .....	60
4 .....	80
5 or more .....	100.

1                   “(C) PARTICIPANTS TO WHOM PARAGRAPH  
2                   APPLIES.—This subparagraph shall apply to  
3                   any participant who, at the time of becoming a  
4                   participant—

5                   “(i) has not accrued any other benefit  
6                   under any defined benefit plan (whether or  
7                   not terminated) maintained by the em-  
8                   ployer or a member of the same controlled  
9                   group of which the employer is a member,

10                  “(ii) who first becomes a participant  
11                  under the plan in a plan year beginning  
12                  after December 31, 1987, and

13                  “(iii) has years of service greater than  
14                  the minimum years of service necessary for  
15                  eligibility to participate in the plan.

16                  “(D) ELECTION.—An employer may elect  
17                  not to have this subparagraph apply. Such an  
18                  election, once made, may be revoked only with  
19                  the consent of the Secretary of the Treasury.

20                  “(i) FUNDED CURRENT LIABILITY PERCENTAGE.—  
21                  For purposes of this section, the term ‘funded current li-

1 ability percentage’ means, with respect to any plan year,  
 2 the percentage which—

3 “(1) the value of the plan’s assets determined  
 4 under subsection (c)(2), is of

5 “(2) the current liability under the plan.

6 “(j) FUNDING RESTORATION STATUS.—Notwith-  
 7 standing any other provisions of this section—

8 “(1) NORMAL COST PAYMENT.—

9 “(A) IN GENERAL.—In the case of a  
 10 CSEC plan that is in funding restoration status  
 11 for a plan year, for purposes of section 302, the  
 12 term ‘accumulated funding deficiency’ means,  
 13 for such plan year, the greater of—

14 “(i) the amount described in sub-  
 15 section (a), or

16 “(ii) the excess of the normal cost of  
 17 the plan for the plan year over the amount  
 18 actually contributed to or under the plan  
 19 for the plan year.

20 “(B) NORMAL COST.—In the case of a  
 21 CSEC plan that uses a spread gain funding  
 22 method, for purposes of this subsection, the  
 23 term ‘normal cost’ means normal cost as deter-  
 24 mined under the entry age normal funding  
 25 method.

1           “(2) PLAN AMENDMENTS.—In the case of a  
2       CSEC plan that is in funding restoration status for  
3       a plan year, no amendment to such plan may take  
4       effect during such plan year if such amendment has  
5       the effect of increasing liabilities of the plan by  
6       means of increases in benefits, establishment of new  
7       benefits, changing the rate of benefit accrual, or  
8       changing the rate at which benefits become non-  
9       forfeitable. This paragraph shall not apply to any  
10      plan amendment that is required to comply with any  
11      applicable law. This paragraph shall cease to apply  
12      with respect to any plan year, effective as of the  
13      first day of the plan year (or if later, the effective  
14      date of the amendment) upon payment by the plan  
15      sponsor of a contribution to the plan (in addition to  
16      any contribution required under this section without  
17      regard to this paragraph) in an amount equal to the  
18      increase in the funding liability of the plan attrib-  
19      utable to the plan amendment.

20           “(3) FUNDING RESTORATION PLAN.—The spon-  
21      sor of a CSEC plan shall establish a written funding  
22      restoration plan within 180 days of the receipt by  
23      the plan sponsor of a certification from the plan ac-  
24      tuary that the plan is in funding restoration status  
25      for a plan year. Such funding restoration plan shall

1 consist of actions that are calculated, based on rea-  
2 sonably anticipated experience and reasonable actu-  
3 arial assumptions, to increase the plan's funded per-  
4 centage to 100 percent over a period that is not  
5 longer than the greater of 7 years or the shortest  
6 amount of time practicable. Such funding restora-  
7 tion plan shall take into account contributions re-  
8 quired under this section (without regard to this  
9 paragraph). If a plan remains in funding restoration  
10 status for 2 or more years, such funding restoration  
11 plan shall be updated each year after the 1st such  
12 year within 180 days of receipt by the plan sponsor  
13 of a certification from the plan actuary that the plan  
14 remains in funding restoration status for the plan  
15 year.

16 “(4) ANNUAL CERTIFICATION BY PLAN ACTU-  
17 ARY.—Not later than the 90th day of each plan year  
18 of a CSEC plan, the plan actuary shall certify to the  
19 plan sponsor whether or not the plan is in funding  
20 restoration status for the plan year, based on the  
21 plan's funded percentage as of the beginning of the  
22 plan year. For this purpose, the actuary may conclu-  
23 sively rely on an estimate of—

24 “(A) the plan's funding liability, based on  
25 the funding liability of the plan for the pre-

1           ceding plan year and on reasonable actuarial es-  
 2           timates, assumptions, and methods, and

3           “(B) the amount of any contributions rea-  
 4           sonably anticipated to be made for the pre-  
 5           ceding plan year.

6           Contributions described in subparagraph (B) shall  
 7           be taken into account in determining the plan’s  
 8           funded percentage as of the beginning of the plan  
 9           year.

10           “(5) DEFINITIONS.—For purposes of this sub-  
 11           section—

12           “(A) FUNDING RESTORATION STATUS.—A  
 13           CSEC plan shall be treated as in funding res-  
 14           toration status for a plan year if the plan’s  
 15           funded percentage as of the beginning of such  
 16           plan year is less than 80 percent.

17           “(B) FUNDED PERCENTAGE.—The term  
 18           ‘funded percentage’ means the ratio (expressed  
 19           as a percentage) which—

20           “(i) the value of plan assets (as deter-  
 21           mined under subsection (c)(2)), bears to

22           “(ii) the plan’s funding liability.

23           “(C) FUNDING LIABILITY.—The term  
 24           ‘funding liability’ for a plan year means the  
 25           present value of all benefits accrued or earned

under the plan as of the beginning of the plan year, based on the assumptions used by the plan pursuant to this section, including the interest rate described in subsection (b)(5)(A) (without regard to subsection (b)(5)(B)).

“(D) SPREAD GAIN FUNDING METHOD.—

The term ‘spread gain funding method’ has the meaning given such term under rules and forms issued by the Secretary of the Treasury.”.

(b) SEPARATE RULES FOR CSEC PLANS.—

(1) IN GENERAL.—Paragraph (2) of section 302(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(a)) is amended by striking “and” at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting “, and”, and by inserting at the end thereof the following new subparagraph:

“(D) in the case of a CSEC plan, the employers make contributions to or under the plan for any plan year which, in the aggregate, are sufficient to ensure that the plan does not have an accumulated funding deficiency under section 306 as of the end of the plan year.”.



1           (2) CONFORMING AMENDMENTS.—Section 302  
2       of the Employee Retirement Income Security Act of  
3       1974 (29 U.S.C. 1082) is amended—

4           (A) by striking “multiemployer plan” the  
5       first place it appears in clause (i) of subsection  
6       (c)(1)(A) and the last place it appears in para-  
7       graph (2) of subsection (d), and inserting “mul-  
8       tiemployer plan or a CSEC plan”,

9           (B) by striking “303(j)” in paragraph (1)  
10       of subsection (b) and inserting “303(j) or under  
11       section 306(f)”,

12          (C)(i) by striking “and” at the end of  
13       clause (i) of subsection (c)(1)(B),

14          (ii) by striking the period at the end of  
15       clause (ii) of subsection (c)(1)(B), and inserting  
16       “, and”, and

17          (iii) by inserting the following new clause  
18       after clause (ii) of subsection (c)(1)(B):

19               “(iii) in the case of a CSEC plan, the  
20               funding standard account shall be credited  
21               under section 306(b)(3)(C) with the  
22               amount of the waived funding deficiency  
23               and such amount shall be amortized as re-  
24               quired under section 306(b)(2)(C).”,

1 (D) by striking “under paragraph (1)” in  
2 clause (i) of subsection (c)(4)(A) and inserting  
3 “under paragraph (1) or for granting an exten-  
4 sion under section 306(d)”,

5 (E) by striking “waiver under this sub-  
6 section” in subparagraph (B) of subsection  
7 (c)(4) and inserting “waiver under this sub-  
8 section or an extension under 306(d)”,

9 (F) by striking “waiver or modification” in  
10 subclause (I) of subsection (c)(4)(B)(i) and in-  
11 serting “waiver, modification, or extension”,

12 (G) by striking “waivers” in the heading of  
13 subsection (c)(4)(C) and of clause (ii) of sub-  
14 section (c)(4)(C) and inserting “waivers or ex-  
15 tensions”,

16 (H) by striking “section 304(d)” in sub-  
17 paragraph (A) of subsection (c)(7) and in para-  
18 graph (2) of subsection (d) and inserting “sec-  
19 tion 304(d) or section 306(d)”,

20 (I) by striking “and” at the end of sub-  
21 clause (I) of subsection (c)(4)(C)(i) and adding  
22 “or the accumulated funding deficiency under  
23 section 306, whichever is applicable”,

24 (J) by striking “303(e)(2),” in subclause  
25 (II) of subsection (c)(4)(C)(i) and inserting

1 “303(e)(2) or 306(b)(2)(C), whichever is appli-  
2 cable, and”,

3 (K) by adding immediately after subclause  
4 (II) of subsection (c)(4)(C)(i) the following new  
5 subclause:

6 “(III) the total amounts not paid  
7 by reason of an extension in effect  
8 under section 306(d),”,

9 (L) by striking “for waivers of” in clause  
10 (ii) of subsection (c)(4)(C) and inserting “for  
11 waivers or extensions with respect to”, and

12 (M) by striking “single-employer plan” in  
13 subparagraph (A) of subsection (a)(2) and in  
14 clause (i) of subsection (c)(1)(B) and inserting  
15 “single-employer plan (other than a CSEC  
16 plan)”.

17 (3) BENEFIT RESTRICTIONS.—Subsection (g) of  
18 section 206 of the Employee Retirement Income Se-  
19 curity Act of 1974 (29 U.S.C. 1056) is amended by  
20 adding at the end thereof the following new para-  
21 graph:

22 “(12) CSEC PLANS.—This subsection shall not  
23 apply to a CSEC plan (as defined in section  
24 210(f)).”.

1           (4) BENEFIT INCREASES.—Paragraph (3) of  
2           section 204(i) of the Employee Retirement Income  
3           Security Act of 1974 (29 U.S.C. 1054(i)) is amend-  
4           ed by striking “multiemployer plans” and inserting  
5           “multiemployer plans or CSEC plans”.

6           (5) SECTION 103.—Subparagraph (B) of section  
7           103(d)(8) of the Employee Retirement Income Secu-  
8           rity Act of 1974 (29 U.S.C. 1023(d)(8)) is amended  
9           by striking “303(h) and 304(c)(3)” and inserting  
10          “303(h), 304(c)(3), and 306(c)(3)”.

11          (6) SECTION 502.—Subsection (c) of section  
12          502 of the Employee Retirement Income Security  
13          Act of 1974 is amended—

14                (A) by redesignating the last paragraph as  
15                paragraph (11), and

16                (B) by adding at the end the following new  
17                paragraph:

18                “(12) The Secretary may assess a civil penalty  
19                against any sponsor of a CSEC plan of up to \$100  
20                a day from the date of the plan sponsor’s failure to  
21                comply with the requirements of section 306(j)(3) to  
22                establish or update a funding restoration plan.”.

23          (7) SECTION 4003.—Subparagraph (B) of sec-  
24          tion 4003(e)(1) of the Employee Retirement Income  
25          Security Act of 1974 (29 U.S.C. 1303(e)(1)) is

1 amended by striking “303(k)(1)(A) and (B) of this  
 2 Act or section 430(k)(1)(A) and (B) of the Internal  
 3 Revenue Code of 1986” and inserting “303(k)(1)(A)  
 4 and (B) or 306(g)(1)(A) and (B) of this Act or sec-  
 5 tion 430(k)(1)(A) and (B) or 433(g)(1)(A) and (B)  
 6 of the Internal Revenue Code of 1986”.

7 (8) SECTION 4010.—Paragraph (2) of section  
 8 4010(b) of the Employee Retirement Income Secu-  
 9 rity Act of 1974 (29 U.S.C. 1310(b)) is amended by  
 10 striking “303(k)(1)(A) and (B) of this Act or sec-  
 11 tion 430(k)(1)(A) and (B) of the Internal Revenue  
 12 Code of 1986” and inserting “303(k)(1)(A) and (B)  
 13 or 306(g)(1)(A) and (B) of this Act or section  
 14 430(k)(1)(A) and (B) or 433(g)(1)(A) and (B) of  
 15 the Internal Revenue Code of 1986”.

16 (9) SECTION 4071.—Section 4071 of the Em-  
 17 ployee Retirement Income Security Act of 1974 (29  
 18 U.S.C. 1371) is amended by striking “section  
 19 303(k)(4)” and inserting “section 303(k)(4) or  
 20 306(g)(4)”.

21 **SEC. 103. ELECTIONS.**

22 (a) ELECTION NOT TO BE TREATED AS A CSEC  
 23 PLAN.—Subsection (f) of section 210 of the Employee Re-  
 24 tirement Income Security Act of 1974, as added by section

1 101, is amended by adding at the end the following new  
2 paragraph:

3 “(3) ELECTION.—

4 “(A) IN GENERAL.—If a plan falls within  
5 the definition of a CSEC plan under this sub-  
6 section (without regard to this paragraph), such  
7 plan shall be a CSEC plan unless the plan  
8 sponsor elects not later than the close of the  
9 first plan year of the plan beginning after De-  
10 cember 31, 2013, not to be treated as a CSEC  
11 plan. An election under the preceding sentence  
12 shall take effect for such plan year and, once  
13 made, may be revoked only with the consent of  
14 the Secretary of the Treasury.

15 “(B) SPECIAL RULE.—If a plan described  
16 in subparagraph (A) is treated as a CSEC plan,  
17 section 104 of the Pension Protection Act of  
18 2006, as amended by the Preservation of Ac-  
19 cess to Care for Medicare Beneficiaries and  
20 Pension Relief Act of 2010, shall cease to apply  
21 to such plan as of the first date as of which  
22 such plan is treated as a CSEC plan.”.

23 (b) ELECTION TO CEASE TO BE TREATED AS AN  
24 ELIGIBLE CHARITY PLAN.—Subsection (d) of section 104  
25 of the Pension Protection Act of 2006, as added by section

1 202 of the Preservation of Access to Care for Medicare  
2 Beneficiaries and Pension Relief Act of 2010, is amend-  
3 ed—

4 (1) by striking “For purposes of” and inserting  
5 “(1) IN GENERAL.—For purposes of”, and

6 (2) by adding at the end the following:

7 “(2) ELECTION NOT TO BE AN ELIGIBLE CHAR-  
8 ITY PLAN.—A plan sponsor may elect for a plan to  
9 cease to be treated as an eligible charity plan for  
10 plan years beginning after December 31, 2013. Such  
11 election shall be made at such time and in such form  
12 and manner as shall be prescribed by the Secretary  
13 of the Treasury. Any such election may be revoked  
14 only with the consent of the Secretary of the Treas-  
15 ury.

16 “(3) ELECTION TO USE FUNDING OPTIONS  
17 AVAILABLE TO OTHER PLAN SPONSORS.—

18 “(A) A plan sponsor that makes the elec-  
19 tion described in paragraph (2) may elect for a  
20 plan to apply the rules described in subpara-  
21 graphs (B), (C), and (D) for plan years begin-  
22 ning after December 31, 2013. Such election  
23 shall be made at such time and in such form  
24 and manner as shall be prescribed by the Sec-  
25 retary of the Treasury. Any such election may

1 be revoked only with the consent of the Sec-  
2 retary of the Treasury.

3 “(B) Under the rules described in this sub-  
4 paragraph, for the first plan year beginning  
5 after December 31, 2013, a plan has—

6 “(i) an 11-year shortfall amortization  
7 base,

8 “(ii) a 12-year shortfall amortization  
9 base, and

10 “(iii) a 7-year shortfall amortization  
11 base.

12 “(C) Under the rules described in this sub-  
13 paragraph, section 303(c)(2)(A) and (B) of the  
14 Employee Retirement Income Security Act of  
15 1974, and section 430(c)(2)(A) and (B) of the  
16 Internal Revenue Code of 1986 shall be applied  
17 by—

18 “(i) in the case of an 11-year shortfall  
19 amortization base, substituting ‘11-plan-  
20 year period’ for ‘7-plan-year period’ wher-  
21 ever such phrase appears, and

22 “(ii) in the case of a 12-year shortfall  
23 amortization base, substituting ‘12-plan-  
24 year period’ for ‘7-plan-year period’ wher-  
25 ever such phrase appears.



1           “(D) Under the rules described in this sub-  
2 paragraph, section 303(c)(7) of the Employee  
3 Retirement Income Security Act of 1974 and  
4 section 430(c)(7) of the Internal Revenue Code  
5 of 1986 shall apply to a plan for which an elec-  
6 tion has been made under subparagraph (A).  
7 Such provisions shall apply in the following  
8 manner:

9           “(i) The first plan year beginning  
10 after December 31, 2013, shall be treated  
11 as an election year, and no other plan  
12 years shall be so treated.

13           “(ii) All references in section  
14 303(c)(7) of such Act and section  
15 430(c)(7) of such Code to ‘February 28,  
16 2010’ or ‘March 1, 2010’ shall be treated  
17 as references to ‘February 28, 2013’ or  
18 ‘March 1, 2013’, respectively.

19           “(E) For purposes of this paragraph, the  
20 11-year amortization base is an amount, deter-  
21 mined for the first plan year beginning after  
22 December 31, 2013, equal to the unamortized  
23 principal amount of the shortfall amortization  
24 base (as defined in section 303(c)(3) of the Em-  
25 ployee Retirement Income Security Act of 1974

1 and section 430(c)(3) of the Internal Revenue  
2 Code of 1986) that would have applied to the  
3 plan for the first plan beginning after Decem-  
4 ber 31, 2009, if—

5 “(i) the plan had never been an eligi-  
6 ble charity plan,

7 “(ii) the plan sponsor had made the  
8 election described in section  
9 303(c)(2)(D)(i) of the Employee Retirement  
10 Income Security Act of 1974 and in  
11 section 430(c)(2)(D)(i) of the Internal  
12 Revenue Code of 1986 to have section  
13 303(c)(2)(D)(i) of such Act and section  
14 430(c)(2)(D)(iii) of such Code apply with  
15 respect to the shortfall amortization base  
16 for the first plan year beginning after De-  
17 cember 31, 2009, and

18 “(iii) no event had occurred under  
19 paragraph (6) or (7) of section 303(c) of  
20 such Act or paragraph (6) or (7) of section  
21 430(c) of such Code that, as of the first  
22 day of the first plan year beginning after  
23 December 31, 2013, would have modified  
24 the shortfall amortization base or the  
25 shortfall amortization installments with re-

1           spect to the first plan year beginning after  
2           December 31, 2009.

3           “(F) For purposes of this paragraph, the  
4           12-year amortization base is an amount, deter-  
5           mined for the first plan year beginning after  
6           December 31, 2013, equal to the unamortized  
7           principal amount of the shortfall amortization  
8           base (as defined in section 303(c)(3) of the Em-  
9           ployee Retirement Income Security Act of 1974  
10          and section 430(c)(3) of the Internal Revenue  
11          Code of 1986) that would have applied to the  
12          plan for the first plan beginning after Decem-  
13          ber 31, 2010, if—

14               “(i) the plan had never been an eligi-  
15               ble charity plan,

16               “(ii) the plan sponsor had made the  
17               election       described       in       section  
18               303(c)(2)(D)(i) of the Employee Retire-  
19               ment Income Security Act of 1974 and in  
20               section 430(c)(2)(D)(i) of the Internal  
21               Revenue Code of 1986 to have section  
22               303(c)(2)(D)(i) of such Act and section  
23               430(c)(2)(D)(iii) of such Code apply with  
24               respect to the shortfall amortization base

1 for the first plan year beginning after De-  
2 cember 31, 2010, and

3 “(iii) no event had occurred under  
4 paragraph (6) or (7) of section 303(c) of  
5 such Act or paragraph (6) or (7) of section  
6 430(c) of such Code that, as of the first  
7 day of the first plan year beginning after  
8 December 31, 2013, would have modified  
9 the shortfall amortization base or the  
10 shortfall amortization installments with re-  
11 spect to the first plan year beginning after  
12 December 31, 2010.

13 “(G) For purposes of this paragraph, the  
14 7-year shortfall amortization base is an amount,  
15 determined for the first plan year beginning  
16 after December 31, 2013, equal to—

17 “(i) the shortfall amortization base for  
18 the first plan year beginning after Decem-  
19 ber 31, 2013, without regard to this para-  
20 graph, minus

21 “(ii) the sum of the 11-year shortfall  
22 amortization base and the 12-year shortfall  
23 amortization base.

24 “(4) RETROACTIVE ELECTION.—Not later than  
25 December 31, 2014, a plan sponsor may make a

1 one-time, irrevocable, retroactive election to not be  
2 treated as an eligible charity plan. Such election  
3 shall be effective for plan years beginning after De-  
4 cember 31, 2007, and shall be made by providing  
5 reasonable notice to the Secretary of the Treasury.”.

6 (c) DEEMED ELECTION.—For purposes of the Inter-  
7 nal Revenue Code of 1986, sections 4(b)(2) and  
8 4021(b)(3) of the Employee Retirement Income Security  
9 Act of 1974, and all other purposes, a plan shall be  
10 deemed to have made an irrevocable election under section  
11 410(d) of the Internal Revenue Code of 1986 if—

12 (1) the plan was established before January 1,  
13 2014;

14 (2) the plan falls within the definition of a  
15 CSEC plan;

16 (3) the plan sponsor does not make an election  
17 under section 210(f)(3)(A) of the Employee Retire-  
18 ment Income Security Act of 1974 and section  
19 414(y)(3)(A) of the Internal Revenue Code of 1986,  
20 as added by this Act; and

21 (4) the plan, plan sponsor, administrator, or fi-  
22 duciary remits one or more premium payments for  
23 the plan to the Pension Benefit Guaranty Corpora-  
24 tion for a plan year beginning after December 31,  
25 2013.

1 (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply as of the date of enactment of this  
3 Act.

4 **SEC. 104. TRANSPARENCY.**

5 (a) NOTICE TO PARTICIPANTS.—

6 (1) IN GENERAL.—Paragraph (2) of section  
7 101(f) of the Employee Retirement Income Security  
8 Act of 1974 (29 U.S.C. 1021(f)) is amended by add-  
9 ing at the end the following new subparagraph:

10 “(E) EFFECT OF CSEC PLAN RULES ON  
11 PLAN FUNDING.—In the case of a CSEC plan,  
12 each notice under paragraph (1) shall include—

13 “(i) a statement that different rules  
14 apply to CSEC plans than apply to single-  
15 employer plans,

16 “(ii) for the first 2 plan years begin-  
17 ning after December 31, 2013, a statement  
18 that, as a result of changes in the law  
19 made by the Cooperative and Small Em-  
20 ployer Charity Pension Flexibility Act, the  
21 contributions to the plan may have  
22 changed, and

23 “(iii) in the case of a CSEC plan that  
24 is in funding restoration status for the  
25 plan year, a statement that the plan is in

1 funding restoration status for such plan  
2 year.

3 A copy of the statement required under clause  
4 (iii) shall be provided to the Secretary, the Sec-  
5 retary of the Treasury, and the Director of the  
6 Pension Benefit Guaranty Corporation.”.

7 (2) MODEL NOTICE.—The Secretary of Labor  
8 may modify the model notice required to be pub-  
9 lished under section 501(c) of the Pension Protec-  
10 tion Act of 2006 to include the information de-  
11 scribed in section 101(f)(2)(E) of the Employee Re-  
12 tirement Income Security Act of 1974, as added by  
13 this subsection.

14 (b) NOTICE OF FAILURE TO MEET MINIMUM FUND-  
15 ING STANDARDS.—

16 (1) PENDING WAIVERS.—Paragraph (2) of sec-  
17 tion 101(d) of the Employee Retirement Income Se-  
18 curity Act of 1974 (29 U.S.C. 1021(d)) is amended  
19 by striking “303” and inserting “303 or 306”.

20 (2) DEFINITIONS.—Paragraph (3) of section  
21 101(d) of the Employee Retirement Income Security  
22 Act of 1974 (21 U.S.C. 1021(d)) is amended by  
23 striking “303(j)” and inserting “303(j) or 306(f),  
24 whichever is applicable”.

1       (c) **ADDITIONAL REPORTING REQUIREMENTS.**—Sec-  
 2       tion 103 of the Employee Retirement Income Security Act  
 3       of 1974 (29 U.S.C. 1023) is amended by adding at the  
 4       end the following new subsection:

5       “(g) **ADDITIONAL INFORMATION WITH RESPECT TO**  
 6       **MULTIPLE EMPLOYER PLANS.**—With respect to any mul-  
 7       tiple employer plan, an annual report under this section  
 8       for a plan year shall include a list of participating employ-  
 9       ers and a good faith estimate of the percentage of total  
 10      contributions made by such participating employers dur-  
 11      ing the plan year.”.

12      **SEC. 105. SPONSOR EDUCATION AND ASSISTANCE.**

13      (a) **DEFINITION.**—In this section, the term “CSEC  
 14      plan” has the meaning given that term in subsection (f)(1)  
 15      of section 210 of the Employee Retirement Income Secu-  
 16      rity Act of 1974 (29 U.S.C. 1060(f)(1)) (as added by this  
 17      Act).

18      (b) **EDUCATION.**—The Participant and Plan Sponsor  
 19      Advocate established under section 4004 of the Employee  
 20      Retirement Income Security Act of 1974 (29 U.S.C. 1304)  
 21      shall make itself available to assist CSEC plan sponsors  
 22      and participants as part of the duties it performs under  
 23      the general supervision of the Board of Directors under  
 24      section 4004(b) of such Act (29 U.S.C. 1304(b)).



1 **TITLE II—AMENDMENTS TO IN-**  
2 **TERNAL REVENUE CODE OF**  
3 **1986**

4 **SEC. 201. DEFINITION OF COOPERATIVE AND SMALL EM-**  
5 **PLOYER CHARITY PENSION PLANS.**

6 Section 414 of the Internal Revenue Code of 1986  
7 is amended by adding at the end the following new sub-  
8 section:

9 “(y) COOPERATIVE AND SMALL EMPLOYER CHARITY  
10 PENSION PLANS.—

11 “(1) IN GENERAL.—For purposes of this title,  
12 except as provided in this subsection, a CSEC plan  
13 is a defined benefit plan (other than a multiemployer  
14 plan)—

15 “(A) to which section 104 of the Pension  
16 Protection Act of 2006 applies, without regard  
17 to—

18 “(i) section 104(a)(2) of such Act;

19 “(ii) the amendments to such section  
20 104 by section 202(b) of the Preservation  
21 of Access to Care for Medicare Bene-  
22 ficiaries and Pension Relief Act of 2010;  
23 and

24 “(iii) paragraph (3)(B); or

1           “(B) that, as of June 25, 2010, was main-  
 2           tained by more than one employer and all of the  
 3           employers were organizations described in sec-  
 4           tion 501(c)(3).

5           “(2) AGGREGATION.—All employers that are  
 6           treated as a single employer under subsection (b) or  
 7           (c) shall be treated as a single employer for purposes  
 8           of determining if a plan was maintained by more  
 9           than one employer under paragraph (1)(B).”.

10 **SEC. 202. FUNDING RULES APPLICABLE TO COOPERATIVE**  
 11 **AND SMALL EMPLOYER CHARITY PENSION**  
 12 **PLANS.**

13       (a) IN GENERAL.—Subpart A of part III of sub-  
 14 chapter D of chapter 1 of subtitle A of the Internal Rev-  
 15 enue Code of 1986 is amended by adding at the end the  
 16 following new section:

17 **“SEC. 433. MINIMUM FUNDING STANDARDS.**

18       “(a) GENERAL RULE.—For purposes of section 412,  
 19 the term ‘accumulated funding deficiency’ for a CSEC  
 20 plan means the excess of the total charges to the funding  
 21 standard account for all plan years (beginning with the  
 22 first plan year to which section 412 applies) over the total  
 23 credits to such account for such years or, if less, the excess  
 24 of the total charges to the alternative minimum funding

1 standard account for such plan years over the total credits  
2 to such account for such years.

3 “(b) FUNDING STANDARD ACCOUNT.—

4 “(1) ACCOUNT REQUIRED.—Each plan to which  
5 this section applies shall establish and maintain a  
6 funding standard account. Such account shall be  
7 credited and charged solely as provided in this sec-  
8 tion.

9 “(2) CHARGES TO ACCOUNT.—For a plan year,  
10 the funding standard account shall be charged with  
11 the sum of—

12 “(A) the normal cost of the plan for the  
13 plan year,

14 “(B) the amounts necessary to amortize in  
15 equal annual installments (until fully amor-  
16 tized)—

17 “(i) in the case of a plan in existence  
18 on January 1, 1974, the unfunded past  
19 service liability under the plan on the first  
20 day of the first plan year to which section  
21 412 applies, over a period of 40 plan years,

22 “(ii) in the case of a plan which comes  
23 into existence after January 1, 1974, but  
24 before the first day of the first plan year  
25 beginning after December 31, 2013, the

1 unfunded past service liability under the  
2 plan on the first day of the first plan year  
3 to which section 412 applies, over a period  
4 of 30 plan years,

5 “(iii) separately, with respect to each  
6 plan year, the net increase (if any) in un-  
7 funded past service liability under the plan  
8 arising from plan amendments adopted in  
9 such year, over a period of 15 plan years,

10 “(iv) separately, with respect to each  
11 plan year, the net experience loss (if any)  
12 under the plan, over a period of 5 plan  
13 years, and

14 “(v) separately, with respect to each  
15 plan year, the net loss (if any) resulting  
16 from changes in actuarial assumptions  
17 used under the plan, over a period of 10  
18 plan years,

19 “(C) the amount necessary to amortize  
20 each waived funding deficiency (within the  
21 meaning of section 412(c)(3)) for each prior  
22 plan year in equal annual installments (until  
23 fully amortized) over a period of 5 plan years,

24 “(D) the amount necessary to amortize in  
25 equal annual installments (until fully amor-

1           tized) over a period of 5 plan years any amount  
2           credited to the funding standard account under  
3           paragraph (3)(D), and

4           “(E) the amount necessary to amortize in  
5           equal annual installments (until fully amor-  
6           tized) over a period of 20 years the contribu-  
7           tions which would be required to be made under  
8           the plan but for the provisions of section  
9           412(c)(7)(A)(i)(I) (as in effect on the day be-  
10          fore the enactment of the Pension Protection  
11          Act of 2006).

12          “(3) CREDITS TO ACCOUNT.—For a plan year,  
13          the funding standard account shall be credited with  
14          the sum of—

15               “(A) the amount considered contributed by  
16               the employer to or under the plan for the plan  
17               year,

18               “(B) the amount necessary to amortize in  
19               equal annual installments (until fully amor-  
20               tized)—

21                   “(i) separately, with respect to each  
22                   plan year, the net decrease (if any) in un-  
23                   funded past service liability under the plan  
24                   arising from plan amendments adopted in  
25                   such year, over a period of 15 plan years,

1                   “(ii) separately, with respect to each  
2                   plan year, the net experience gain (if any)  
3                   under the plan, over a period of 5 plan  
4                   years, and

5                   “(iii) separately, with respect to each  
6                   plan year, the net gain (if any) resulting  
7                   from changes in actuarial assumptions  
8                   used under the plan, over a period of 10  
9                   plan years,

10                  “(C) the amount of the waived funding de-  
11                  ficiency (within the meaning of section  
12                  412(c)(3)) for the plan year, and

13                  “(D) in the case of a plan year for which  
14                  the accumulated funding deficiency is deter-  
15                  mined under the funding standard account if  
16                  such plan year follows a plan year for which  
17                  such deficiency was determined under the alter-  
18                  native minimum funding standard, the excess  
19                  (if any) of any debit balance in the funding  
20                  standard account (determined without regard to  
21                  this subparagraph) over any debit balance in  
22                  the alternative minimum funding standard ac-  
23                  count.

24                  “(4) COMBINING AND OFFSETTING AMOUNTS  
25                  TO BE AMORTIZED.—Under regulations prescribed

1 by the Secretary, amounts required to be amortized  
2 under paragraph (2) or paragraph (3), as the case  
3 may be—

4 “(A) may be combined into one amount  
5 under such paragraph to be amortized over a  
6 period determined on the basis of the remaining  
7 amortization period for all items entering into  
8 such combined amount, and

9 “(B) may be offset against amounts re-  
10 quired to be amortized under the other such  
11 paragraph, with the resulting amount to be am-  
12 ortized over a period determined on the basis of  
13 the remaining amortization periods for all items  
14 entering into whichever of the two amounts  
15 being offset is the greater.

16 “(5) INTEREST.—

17 “(A) IN GENERAL.—Except as provided in  
18 subparagraph (B), the funding standard ac-  
19 count (and items therein) shall be charged or  
20 credited (as determined under regulations pre-  
21 scribed by the Secretary) with interest at the  
22 appropriate rate consistent with the rate or  
23 rates of interest used under the plan to deter-  
24 mine costs.

1           “(B) EXCEPTION.—The interest rate used  
2           for purposes of computing the amortization  
3           charge described in subsection (b)(2)(C) or for  
4           purposes of any arrangement under subsection  
5           (d) for any plan year shall be the greater of—

6                   “(i) 150 percent of the Federal mid-  
7                   term rate (as in effect under section 1274  
8                   for the 1st month of such plan year), or

9                   “(ii) the rate of interest determined  
10                  under subparagraph (A).

11           “(6) AMORTIZATION SCHEDULES IN EFFECT.—  
12           Amortization schedules for amounts described in  
13           paragraphs (2) and (3) that are in effect as of the  
14           last day of the last plan year beginning before Janu-  
15           ary 1, 2014, by reason of section 104 of the Pension  
16           Protection Act of 2006 shall remain in effect pursu-  
17           ant to their terms and this section, except that such  
18           amounts shall not be amortized again under this sec-  
19           tion.

20           “(c) SPECIAL RULES.—

21                   “(1) DETERMINATIONS TO BE MADE UNDER  
22                   FUNDING METHOD.—For purposes of this section,  
23                   normal costs, accrued liability, past service liabilities,  
24                   and experience gains and losses shall be determined



1 under the funding method used to determine costs  
2 under the plan.

3 “(2) VALUATION OF ASSETS.—

4 “(A) IN GENERAL.—For purposes of this  
5 section, the value of the plan’s assets shall be  
6 determined on the basis of any reasonable actu-  
7 arial method of valuation which takes into ac-  
8 count fair market value and which is permitted  
9 under regulations prescribed by the Secretary.

10 “(B) DEDICATED BOND PORTFOLIO.—The  
11 Secretary may by regulations provide that the  
12 value of any dedicated bond portfolio of a plan  
13 shall be determined by using the interest rate  
14 under section 412(b)(5) (as in effect on the day  
15 before the enactment of the Pension Protection  
16 Act of 2006).

17 “(3) ACTUARIAL ASSUMPTIONS MUST BE REA-  
18 SONABLE.—For purposes of this section, all costs, li-  
19 abilities, rates of interest, and other factors under  
20 the plan shall be determined on the basis of actu-  
21 arial assumptions and methods—

22 “(A) each of which is reasonable (taking  
23 into account the experience of the plan and rea-  
24 sonable expectations), and

1           “(B) which, in combination, offer the actu-  
 2           ary’s best estimate of anticipated experience  
 3           under the plan.

4           “(4) TREATMENT OF CERTAIN CHANGES AS EX-  
 5           PERIENCE GAIN OR LOSS.—For purposes of this sec-  
 6           tion, if—

7           “(A) a change in benefits under the Social  
 8           Security Act or in other retirement benefits cre-  
 9           ated under Federal or State law, or

10          “(B) a change in the definition of the term  
 11          ‘wages’ under section 3121 or a change in the  
 12          amount of such wages taken into account under  
 13          regulations prescribed for purposes of section  
 14          401(a)(5),  
 15          results in an increase or decrease in accrued liability  
 16          under a plan, such increase or decrease shall be  
 17          treated as an experience loss or gain.

18          “(5) FUNDING METHOD AND PLAN YEAR.—

19          “(A) FUNDING METHODS AVAILABLE.—All  
 20          funding methods available to CSEC plans under  
 21          section 412 (as in effect on the day before the  
 22          enactment of the Pension Protection Act of  
 23          2006) shall continue to be available under this  
 24          section.

“(B) CHANGES.—If the funding method for a plan is changed, the new funding method shall become the funding method used to determine costs and liabilities under the plan only if the change is approved by the Secretary. If the plan year for a plan is changed, the new plan year shall become the plan year for the plan only if the change is approved by the Secretary.

“(C) APPROVAL REQUIRED FOR CERTAIN CHANGES IN ASSUMPTIONS BY CERTAIN SINGLE-EMPLOYER PLANS SUBJECT TO ADDITIONAL FUNDING REQUIREMENT.—

“(i) IN GENERAL.—No actuarial assumption (other than the assumptions described in subsection (h)(3)) used to determine the current liability for a plan to which this subparagraph applies may be changed without the approval of the Secretary.

“(ii) PLANS TO WHICH SUBPARAGRAPH APPLIES.—This subparagraph shall apply to a plan only if—

“(I) the plan is a CSEC plan,

“(II) the aggregate unfunded vested benefits as of the close of the

1 preceding plan year (as determined  
2 under section 4006(a)(3)(E)(iii) of the  
3 Employee Retirement Income Security  
4 Act of 1974) of such plan and all  
5 other plans maintained by the contrib-  
6 uting sponsors (as defined in section  
7 4001(a)(13) of such Act) and mem-  
8 bers of such sponsors' controlled  
9 groups (as defined in section  
10 4001(a)(14) of such Act) which are  
11 covered by title IV (disregarding plans  
12 with no unfunded vested benefits) ex-  
13 ceed \$50,000,000, and

14 “(III) the change in assumptions  
15 (determined after taking into account  
16 any changes in interest rate and mor-  
17 tality table) results in a decrease in  
18 the funding shortfall of the plan for  
19 the current plan year that exceeds  
20 \$50,000,000, or that exceeds  
21 \$5,000,000 and that is 5 percent or  
22 more of the current liability of the  
23 plan before such change.

24 “(6) FULL FUNDING.—If, as of the close of a  
25 plan year, a plan would (without regard to this para-

graph) have an accumulated funding deficiency (determined without regard to the alternative minimum funding standard account permitted under subsection (e)) in excess of the full funding limitation—

“(A) the funding standard account shall be credited with the amount of such excess, and

“(B) all amounts described in paragraphs (2)(B), (C), and (D) and (3)(B) of subsection (b) which are required to be amortized shall be considered fully amortized for purposes of such paragraphs.

“(7) FULL-FUNDING LIMITATION.—For purposes of paragraph (6), the term ‘full-funding limitation’ means the excess (if any) of—

“(A) the accrued liability (including normal cost) under the plan (determined under the entry age normal funding method if such accrued liability cannot be directly calculated under the funding method used for the plan), over

“(B) the lesser of—

“(i) the fair market value of the plan’s assets, or

“(ii) the value of such assets determined under paragraph (2).

1 “(C) MINIMUM AMOUNT.—

2 “(i) IN GENERAL.—In no event shall  
3 the full-funding limitation determined  
4 under subparagraph (A) be less than the  
5 excess (if any) of—

6 “(I) 90 percent of the current li-  
7 ability (determined without regard to  
8 paragraph (4) of subsection (h)) of  
9 the plan (including the expected in-  
10 crease in such current liability due to  
11 benefits accruing during the plan  
12 year), over

13 “(II) the value of the plan’s as-  
14 sets determined under paragraph (2).

15 “(ii) ASSETS.—For purposes of clause  
16 (i), assets shall not be reduced by any  
17 credit balance in the funding standard ac-  
18 count.

19 “(8) ANNUAL VALUATION.—

20 “(A) IN GENERAL.—For purposes of this  
21 section, a determination of experience gains and  
22 losses and a valuation of the plan’s liability  
23 shall be made not less frequently than once  
24 every year, except that such determination shall  
25 be made more frequently to the extent required

1 in particular cases under regulations prescribed  
2 by the Secretary.

3 “(B) VALUATION DATE.—

4 “(i) CURRENT YEAR.—Except as pro-  
5 vided in clause (ii), the valuation referred  
6 to in subparagraph (A) shall be made as of  
7 a date within the plan year to which the  
8 valuation refers or within one month prior  
9 to the beginning of such year.

10 “(ii) USE OF PRIOR YEAR VALU-  
11 ATION.—The valuation referred to in sub-  
12 paragraph (A) may be made as of a date  
13 within the plan year prior to the year to  
14 which the valuation refers if, as of such  
15 date, the value of the assets of the plan are  
16 not less than 100 percent of the plan’s cur-  
17 rent liability.

18 “(iii) ADJUSTMENTS.—Information  
19 under clause (ii) shall, in accordance with  
20 regulations, be actuarially adjusted to re-  
21 flect significant differences in participants.

22 “(iv) LIMITATION.—A change in fund-  
23 ing method to use a prior year valuation,  
24 as provided in clause (ii), may not be made  
25 unless as of the valuation date within the

1 prior plan year, the value of the assets of  
2 the plan are not less than 125 percent of  
3 the plan's current liability.

4 “(9) TIME WHEN CERTAIN CONTRIBUTIONS  
5 DEEMED MADE.—For purposes of this section, any  
6 contributions for a plan year made by an employer  
7 during the period—

8 “(A) beginning on the day after the last  
9 day of such plan year, and

10 “(B) ending on the day which is 8½  
11 months after the close of the plan year,  
12 shall be deemed to have been made on such last day.

13 “(10) ANTICIPATION OF BENEFIT INCREASES  
14 EFFECTIVE IN THE FUTURE.—In determining pro-  
15 jected benefits, the funding method of a collectively  
16 bargained CSEC plan described in section 413(a)  
17 shall anticipate benefit increases scheduled to take  
18 effect during the term of the collective bargaining  
19 agreement applicable to the plan.

20 “(d) EXTENSION OF AMORTIZATION PERIODS.—The  
21 period of years required to amortize any unfunded liability  
22 (described in any clause of subsection (b)(2)(B)) of any  
23 plan may be extended by the Secretary for a period of  
24 time (not in excess of 10 years) if the Secretary deter-  
25 mines that such extension would carry out the purposes



1 of the Employee Retirement Income Security Act of 1974  
2 and provide adequate protection for participants under the  
3 plan and their beneficiaries, and if the Secretary deter-  
4 mines that the failure to permit such extension would re-  
5 sult in—

6 “(1) a substantial risk to the voluntary continu-  
7 ation of the plan, or

8 “(2) a substantial curtailment of pension ben-  
9 efit levels or employee compensation.

10 “(e) ALTERNATIVE MINIMUM FUNDING STAND-  
11 ARD.—

12 “(1) IN GENERAL.—A CSEC plan which uses a  
13 funding method that requires contributions in all  
14 years not less than those required under the entry  
15 age normal funding method may maintain an alter-  
16 native minimum funding standard account for any  
17 plan year. Such account shall be credited and  
18 charged solely as provided in this subsection.

19 “(2) CHARGES AND CREDITS TO ACCOUNT.—  
20 For a plan year the alternative minimum funding  
21 standard account shall be—

22 “(A) charged with the sum of—

23 “(i) the lesser of normal cost under  
24 the funding method used under the plan or

1 normal cost determined under the unit  
2 credit method,

3 “(ii) the excess, if any, of the present  
4 value of accrued benefits under the plan  
5 over the fair market value of the assets,  
6 and

7 “(iii) an amount equal to the excess  
8 (if any) of credits to the alternative min-  
9 imum standard account for all prior plan  
10 years over charges to such account for all  
11 such years, and

12 “(B) credited with the amount considered  
13 contributed by the employer to or under the  
14 plan for the plan year.

15 “(3) INTEREST.—The alternative minimum  
16 funding standard account (and items therein) shall  
17 be charged or credited with interest in the manner  
18 provided under subsection (b)(5) with respect to the  
19 funding standard account.

20 “(f) QUARTERLY CONTRIBUTIONS REQUIRED.—

21 “(1) IN GENERAL.—If a CSEC plan which has  
22 a funded current liability percentage for the pre-  
23 ceding plan year of less than 100 percent fails to  
24 pay the full amount of a required installment for the  
25 plan year, then the rate of interest charged to the

1 funding standard account under subsection (b)(5)  
2 with respect to the amount of the underpayment for  
3 the period of the underpayment shall be equal to the  
4 greater of—

5 “(A) 175 percent of the Federal mid-term  
6 rate (as in effect under section 1274 for the 1st  
7 month of such plan year), or

8 “(B) the rate of interest used under the  
9 plan in determining costs.

10 “(2) AMOUNT OF UNDERPAYMENT, PERIOD OF  
11 UNDERPAYMENT.—For purposes of paragraph (1)—

12 “(A) AMOUNT.—The amount of the under-  
13 payment shall be the excess of—

14 “(i) the required installment, over

15 “(ii) the amount (if any) of the in-  
16 stallment contributed to or under the plan  
17 on or before the due date for the install-  
18 ment.

19 “(B) PERIOD OF UNDERPAYMENT.—The  
20 period for which interest is charged under this  
21 subsection with regard to any portion of the un-  
22 derpayment shall run from the due date for the  
23 installment to the date on which such portion is  
24 contributed to or under the plan (determined  
25 without regard to subsection (c)(9)).

1           “(C) ORDER OF CREDITING CONTRIBU-  
 2           TIONS.—For purposes of subparagraph (A)(ii),  
 3           contributions shall be credited against unpaid  
 4           required installments in the order in which such  
 5           installments are required to be paid.

6           “(3) NUMBER OF REQUIRED INSTALLMENTS;  
 7           DUE DATES.—For purposes of this subsection—

8           “(A) PAYABLE IN 4 INSTALLMENTS.—  
 9           There shall be 4 required installments for each  
 10          plan year.

11          “(B) TIME FOR PAYMENT OF INSTALL-  
 12          MENTS.—

**“In the case of the following  
 required installments:**

**The due date is:**

1st .....	April 15
2nd .....	July 15
3rd .....	October 15
4th .....	January 15 of the following year.

13          “(4) AMOUNT OF REQUIRED INSTALLMENT.—  
 14          For purposes of this subsection—

15          “(A) IN GENERAL.—The amount of any  
 16          required installment shall be 25 percent of the  
 17          required annual payment.

18          “(B) REQUIRED ANNUAL PAYMENT.—For  
 19          purposes of subparagraph (A), the term ‘re-  
 20          quired annual payment’ means the lesser of—

1 “(i) 90 percent of the amount re-  
2 quired to be contributed to or under the  
3 plan by the employer for the plan year  
4 under section 412 (without regard to any  
5 waiver under subsection (c) thereof), or

6 “(ii) 100 percent of the amount so re-  
7 quired for the preceding plan year.

8 Clause (ii) shall not apply if the preceding plan  
9 year was not a year of 12 months.

10 “(5) LIQUIDITY REQUIREMENT.—

11 “(A) IN GENERAL.—A plan to which this  
12 paragraph applies shall be treated as failing to  
13 pay the full amount of any required installment  
14 to the extent that the value of the liquid assets  
15 paid in such installment is less than the liquid-  
16 ity shortfall (whether or not such liquidity  
17 shortfall exceeds the amount of such install-  
18 ment required to be paid but for this para-  
19 graph).

20 “(B) PLANS TO WHICH PARAGRAPH AP-  
21 PLIES.—This paragraph shall apply to a CSEC  
22 plan other than a plan described in section  
23 412(l)(6)(A) (as in effect on the day before the  
24 enactment of the Pension Protection Act of  
25 2006) which—

1           “(i) is required to pay installments  
2           under this subsection for a plan year, and

3           “(ii) has a liquidity shortfall for any  
4           quarter during such plan year.

5           “(C) PERIOD OF UNDERPAYMENT.—For  
6           purposes of paragraph (1), any portion of an  
7           installment that is treated as not paid under  
8           subparagraph (A) shall continue to be treated  
9           as unpaid until the close of the quarter in  
10          which the due date for such installment occurs.

11          “(D) LIMITATION ON INCREASE.—If the  
12          amount of any required installment is increased  
13          by reason of subparagraph (A), in no event  
14          shall such increase exceed the amount which,  
15          when added to prior installments for the plan  
16          year, is necessary to increase the funded cur-  
17          rent liability percentage (taking into account  
18          the expected increase in current liability due to  
19          benefits accruing during the plan year) to 100  
20          percent.

21          “(E) DEFINITIONS.—For purposes of this  
22          paragraph—

23                 “(i) LIQUIDITY SHORTFALL.—The  
24                 term ‘liquidity shortfall’ means, with re-  
25                 spect to any required installment, an

1 amount equal to the excess (as of the last  
2 day of the quarter for which such install-  
3 ment is made) of the base amount with re-  
4 spect to such quarter over the value (as of  
5 such last day) of the plan's liquid assets.

6 “(ii) BASE AMOUNT.—

7 “(I) IN GENERAL.—The term  
8 ‘base amount’ means, with respect to  
9 any quarter, an amount equal to 3  
10 times the sum of the adjusted dis-  
11 bursements from the plan for the 12  
12 months ending on the last day of such  
13 quarter.

14 “(II) SPECIAL RULE.—If the  
15 amount determined under subclause  
16 (I) exceeds an amount equal to 2  
17 times the sum of the adjusted dis-  
18 bursements from the plan for the 36  
19 months ending on the last day of the  
20 quarter and an enrolled actuary cer-  
21 tifies to the satisfaction of the Sec-  
22 retary that such excess is the result of  
23 nonrecurring circumstances, the base  
24 amount with respect to such quarter  
25 shall be determined without regard to

1 amounts related to those nonrecurring  
2 circumstances.

3 “(iii) DISBURSEMENTS FROM THE  
4 PLAN.—The term ‘disbursements from the  
5 plan’ means all disbursements from the  
6 trust, including purchases of annuities,  
7 payments of single sums and other bene-  
8 fits, and administrative expenses.

9 “(iv) ADJUSTED DISBURSEMENTS.—  
10 The term ‘adjusted disbursements’ means  
11 disbursements from the plan reduced by  
12 the product of—

13 “(I) the plan’s funded current li-  
14 ability percentage for the plan year,  
15 and

16 “(II) the sum of the purchases of  
17 annuities, payments of single sums,  
18 and such other disbursements as the  
19 Secretary shall provide in regulations.

20 “(v) LIQUID ASSETS.—The term ‘liq-  
21 uid assets’ means cash, marketable securi-  
22 ties and such other assets as specified by  
23 the Secretary in regulations.

24 “(vi) QUARTER.—The term ‘quarter’  
25 means, with respect to any required install-



1                   ment, the 3-month period preceding the  
2                   month in which the due date for such in-  
3                   stallment occurs.

4                   “(F) REGULATIONS.—The Secretary may  
5                   prescribe such regulations as are necessary to  
6                   carry out this paragraph.

7                   “(6) FISCAL YEARS AND SHORT YEARS.—

8                   “(A) FISCAL YEARS.—In applying this  
9                   subsection to a plan year beginning on any date  
10                  other than January 1, there shall be substituted  
11                  for the months specified in this subsection, the  
12                  months which correspond thereto.

13                  “(B) SHORT PLAN YEAR.—This subsection  
14                  shall be applied to plan years of less than 12  
15                  months in accordance with regulations pre-  
16                  scribed by the Secretary.

17                  “(g) IMPOSITION OF LIEN WHERE FAILURE TO  
18                  MAKE REQUIRED CONTRIBUTIONS.—

19                  “(1) IN GENERAL.—In the case of a plan to  
20                  which this section applies, if—

21                  “(A) any person fails to make a required  
22                  installment under subsection (f) or any other  
23                  payment required under this section before the  
24                  due date for such installment or other payment,  
25                  and

1           “(B) the unpaid balance of such install-  
2           ment or other payment (including interest),  
3           when added to the aggregate unpaid balance of  
4           all preceding such installments or other pay-  
5           ments for which payment was not made before  
6           the due date (including interest), exceeds  
7           \$1,000,000,

8           then there shall be a lien in favor of the plan in the  
9           amount determined under paragraph (3) upon all  
10          property and rights to property, whether real or per-  
11          sonal, belonging to such person and any other per-  
12          son who is a member of the same controlled group  
13          of which such person is a member.

14          “(2) PLANS TO WHICH SUBSECTION APPLIES.—

15          This subsection shall apply to a CSEC plan for any  
16          plan year for which the funded current liability per-  
17          centage of such plan is less than 100 percent. This  
18          subsection shall not apply to any plan to which sec-  
19          tion 4021 of the Employee Retirement Income Secu-  
20          rity Act of 1974 does not apply (as such section is  
21          in effect on the date of the enactment of the Retire-  
22          ment Protection Act of 1994).

23          “(3) AMOUNT OF LIEN.—For purposes of para-  
24          graph (1), the amount of the lien shall be equal to  
25          the aggregate unpaid balance of required install-

1       ments and other payments required under this sec-  
2       tion (including interest)—

3               “(A) for plan years beginning after 1987,

4               and

5               “(B) for which payment has not been  
6       made before the due date.

7       “(4) NOTICE OF FAILURE; LIEN.—

8               “(A) NOTICE OF FAILURE.—A person  
9       committing a failure described in paragraph (1)  
10      shall notify the Pension Benefit Guaranty Cor-  
11      poration of such failure within 10 days of the  
12      due date for the required installment or other  
13      payment.

14              “(B) PERIOD OF LIEN.—The lien imposed  
15      by paragraph (1) shall arise on the due date for  
16      the required installment or other payment and  
17      shall continue until the last day of the first plan  
18      year in which the plan ceases to be described in  
19      paragraph (1)(B). Such lien shall continue to  
20      run without regard to whether such plan con-  
21      tinues to be described in paragraph (2) during  
22      the period referred to in the preceding sentence.

23              “(C) CERTAIN RULES TO APPLY.—Any  
24      amount with respect to which a lien is imposed  
25      under paragraph (1) shall be treated as taxes

1           due and owing the United States and rules  
2           similar to the rules of subsections (c), (d), and  
3           (e) of section 4068 of the Employee Retirement  
4           Income Security Act of 1974 shall apply with  
5           respect to a lien imposed by subsection (a) and  
6           the amount with respect to such lien.

7           “(5) ENFORCEMENT.—Any lien created under  
8           paragraph (1) may be perfected and enforced only  
9           by the Pension Benefit Guaranty Corporation, or at  
10          the direction of the Pension Benefit Guaranty Cor-  
11          poration, by any contributing employer (or any  
12          member of the controlled group of the contributing  
13          employer).

14          “(6) DEFINITIONS.—For purposes of this sub-  
15          section—

16               “(A) DUE DATE; REQUIRED INSTALL-  
17               MENT.—The terms ‘due date’ and ‘required in-  
18               stallment’ have the meanings given such terms  
19               by subsection (f), except that in the case of a  
20               payment other than a required installment, the  
21               due date shall be the date such payment is re-  
22               quired to be made under this section.

23               “(B) CONTROLLED GROUP.—The term  
24               ‘controlled group’ means any group treated as

1           a single employer under subsections (b), (c),  
2           (m), and (o) of section 414.

3           “(h) CURRENT LIABILITY.—For purposes of this sec-  
4   tion—

5           “(1) IN GENERAL.—The term ‘current liability’  
6       means all liabilities to employees and their bene-  
7       ficiaries under the plan.

8           “(2) TREATMENT OF UNPREDICTABLE CONTIN-  
9       GENT EVENT BENEFITS.—

10           “(A) IN GENERAL.—For purposes of para-  
11       graph (1), any unpredictable contingent event  
12       benefit shall not be taken into account until the  
13       event on which the benefit is contingent occurs.

14           “(B)     UNPREDICTABLE     CONTINGENT  
15       EVENT BENEFIT.—The term ‘unpredictable  
16       contingent event benefit’ means any benefit  
17       contingent on an event other than—

18           “(i) age, service, compensation, death,  
19       or disability, or

20           “(ii) an event which is reasonably and  
21       reliably predictable (as determined by the  
22       Secretary).

23           “(3) INTEREST RATE AND MORTALITY ASSUMP-  
24       TIONS USED.—

1           “(A) INTEREST RATE.—The rate of inter-  
2           est used to determine current liability under  
3           this section shall be the third segment rate de-  
4           termined under section 430(h)(2)(C).

5           “(B) MORTALITY TABLES.—

6           “(i) SECRETARIAL AUTHORITY.—The  
7           Secretary may by regulation prescribe mor-  
8           tality tables to be used in determining cur-  
9           rent liability under this subsection. Such  
10          tables shall be based upon the actual expe-  
11          rience of pension plans and projected  
12          trends in such experience. In prescribing  
13          such tables, the Secretary shall take into  
14          account results of available independent  
15          studies of mortality of individuals covered  
16          by pension plans.

17          “(ii) PERIODIC REVIEW.—The Sec-  
18          retary shall periodically (at least every 5  
19          years) review any tables in effect under  
20          this subsection and shall, to the extent the  
21          Secretary determines necessary, by regula-  
22          tion update the tables to reflect the actual  
23          experience of pension plans and projected  
24          trends in such experience.

1           “(C) SEPARATE MORTALITY TABLES FOR  
2           THE DISABLED.—Notwithstanding subpara-  
3           graph (B)—

4           “(i) IN GENERAL.—In the case of  
5           plan years beginning after December 31,  
6           1995, the Secretary shall establish mor-  
7           tality tables which may be used (in lieu of  
8           the tables under subparagraph (B)) to de-  
9           termine current liability under this sub-  
10          section for individuals who are entitled to  
11          benefits under the plan on account of dis-  
12          ability. The Secretary shall establish sepa-  
13          rate tables for individuals whose disabil-  
14          ities occur in plan years beginning before  
15          January 1, 1995, and for individuals  
16          whose disabilities occur in plan years be-  
17          ginning on or after such date.

18          “(ii) SPECIAL RULE FOR DISABILITIES  
19          OCCURRING AFTER 1994.—In the case of  
20          disabilities occurring in plan years begin-  
21          ning after December 31, 1994, the tables  
22          under clause (i) shall apply only with re-  
23          spect to individuals described in such sub-  
24          clause who are disabled within the meaning

1 of title II of the Social Security Act and  
 2 the regulations thereunder.

3 “(4) CERTAIN SERVICE DISREGARDED.—

4 “(A) IN GENERAL.—In the case of a par-  
 5 ticipant to whom this paragraph applies, only  
 6 the applicable percentage of the years of service  
 7 before such individual became a participant  
 8 shall be taken into account in computing the  
 9 current liability of the plan.

10 “(B) APPLICABLE PERCENTAGE.—For  
 11 purposes of this subparagraph, the applicable  
 12 percentage shall be determined as follows:

<b>“If the years of participation are:</b>	<b>The applicable percentage is:</b>
1 .....	20
2 .....	40
3 .....	60
4 .....	80
5 or more .....	100.

13 “(C) PARTICIPANTS TO WHOM PARAGRAPH  
 14 APPLIES.—This subparagraph shall apply to  
 15 any participant who, at the time of becoming a  
 16 participant—

17 “(i) has not accrued any other benefit  
 18 under any defined benefit plan (whether or  
 19 not terminated) maintained by the em-  
 20 ployer or a member of the same controlled  
 21 group of which the employer is a member,



1                   “(ii) who first becomes a participant  
2                   under the plan in a plan year beginning  
3                   after December 31, 1987, and

4                   “(iii) has years of service greater than  
5                   the minimum years of service necessary for  
6                   eligibility to participate in the plan.

7                   “(D) ELECTION.—An employer may elect  
8                   not to have this subparagraph apply. Such an  
9                   election, once made, may be revoked only with  
10                  the consent of the Secretary.

11                  “(i) FUNDED CURRENT LIABILITY PERCENTAGE.—  
12                  For purposes of this section, the term ‘funded current li-  
13                  ability percentage’ means, with respect to any plan year,  
14                  the percentage which—

15                       “(1) the value of the plan’s assets determined  
16                       under subsection (c)(2), is of

17                       “(2) the current liability under the plan.

18                  “(j) FUNDING RESTORATION STATUS.—Notwith-  
19                  standing any other provisions of this section—

20                       “(1) NORMAL COST PAYMENT.—

21                               “(A) IN GENERAL.—In the case of a  
22                               CSEC plan that is in funding restoration status  
23                               for a plan year, for purposes of section 412, the  
24                               term ‘accumulated funding deficiency’ means,  
25                               for such plan year, the greater of—

1 “(i) the amount described in sub-  
2 section (a), or

3 “(ii) the excess of the normal cost of  
4 the plan for the plan year over the amount  
5 actually contributed to or under the plan  
6 for the plan year.

7 “(B) NORMAL COST.—In the case of a  
8 CSEC plan that uses a spread gain funding  
9 method, for purposes of this subsection, the  
10 term ‘normal cost’ means normal cost as deter-  
11 mined under the entry age normal funding  
12 method.

13 “(2) PLAN AMENDMENTS.—In the case of a  
14 CSEC plan that is in funding restoration status for  
15 a plan year, no amendment to such plan may take  
16 effect during such plan year if such amendment has  
17 the effect of increasing liabilities of the plan by  
18 means of increases in benefits, establishment of new  
19 benefits, changing the rate of benefit accrual, or  
20 changing the rate at which benefits become non-  
21 forfeitable. This paragraph shall not apply to any  
22 plan amendment that is required to comply with any  
23 applicable law. This paragraph shall cease to apply  
24 with respect to any plan year, effective as of the  
25 first day of the plan year (or if later, the effective

1 date of the amendment) upon payment by the plan  
2 sponsor of a contribution to the plan (in addition to  
3 any contribution required under this section without  
4 regard to this paragraph) in an amount equal to the  
5 increase in the funding liability of the plan attrib-  
6 utable to the plan amendment.

7 “(3) FUNDING RESTORATION PLAN.—The spon-  
8 sor of a CSEC plan shall establish a written funding  
9 restoration plan within 180 days of the receipt by  
10 the plan sponsor of a certification from the plan ac-  
11 tuary that the plan is in funding restoration status  
12 for a plan year. Such funding restoration plan shall  
13 consist of actions that are calculated, based on rea-  
14 sonably anticipated experience and reasonable actu-  
15 arial assumptions, to increase the plan’s funded per-  
16 centage to 100 percent over a period that is not  
17 longer than the greater of 7 years or the shortest  
18 amount of time practicable. Such funding restora-  
19 tion plan shall take into account contributions re-  
20 quired under this section (without regard to this  
21 paragraph). If a plan remains in funding restoration  
22 status for 2 or more years, such funding restoration  
23 plan shall be updated each year after the 1st such  
24 year within 180 days of receipt by the plan sponsor  
25 of a certification from the plan actuary that the plan

1 remains in funding restoration status for the plan  
2 year.

3 “(4) ANNUAL CERTIFICATION BY PLAN ACTU-  
4 ARY.—Not later than the 90th day of each plan year  
5 of a CSEC plan, the plan actuary shall certify to the  
6 plan sponsor whether or not the plan is in funding  
7 restoration status for the plan year, based on the  
8 plan’s funded percentage as of the beginning of the  
9 plan year. For this purpose, the actuary may conclu-  
10 sively rely on an estimate of—

11 “(A) the plan’s funding liability, based on  
12 the funding liability of the plan for the pre-  
13 ceding plan year and on reasonable actuarial es-  
14 timates, assumptions, and methods, and

15 “(B) the amount of any contributions rea-  
16 sonably anticipated to be made for the pre-  
17 ceding plan year.

18 Contributions described in subparagraph (B) shall  
19 be taken into account in determining the plan’s  
20 funded percentage as of the beginning of the plan  
21 year.

22 “(5) DEFINITIONS.—For purposes of this sub-  
23 section—

24 “(A) FUNDING RESTORATION STATUS.—A  
25 CSEC plan shall be treated as in funding res-

1           toration status for a plan year if the plan’s  
2           funded percentage as of the beginning of such  
3           plan year is less than 80 percent.

4           “(B) FUNDED PERCENTAGE.—The term  
5           ‘funded percentage’ means the ratio (expressed  
6           as a percentage) which—

7                   “(i) the value of plan assets (as deter-  
8                   mined under subsection (c)(2)), bears to

9                   “(ii) the plan’s funding liability.

10          “(C) FUNDING LIABILITY.—The term  
11          ‘funding liability’ for a plan year means the  
12          present value of all benefits accrued or earned  
13          under the plan as of the beginning of the plan  
14          year, based on the assumptions used by the  
15          plan pursuant to this section, including the in-  
16          terest rate described in subsection (b)(5)(A)  
17          (without regard to subsection (b)(5)(B)).

18          “(D) SPREAD GAIN FUNDING METHOD.—  
19          The term ‘spread gain funding method’ has the  
20          meaning given such term under rules and forms  
21          issued by the Secretary.

22          “(E) PLAN SPONSOR.—The term ‘plan  
23          sponsor’ means, with respect to a CSEC plan,  
24          the association, committee, joint board of trust-  
25          ees, or other similar group of representatives of

1           the parties who establish or maintain the  
2           plan.”.

3           (b) CSEC PLANS.—Section 413 of the Internal Rev-  
4   enue Code of 1986 is amended by adding at the end the  
5   following new subsection:

6           “(d) CSEC PLANS.—Notwithstanding any other pro-  
7   vision of this section, in the case of a CSEC plan—

8                 “(1) FUNDING.—The requirements of section  
9           412 shall be determined as if all participants in the  
10          plan were employed by a single employer.

11                “(2) APPLICATION OF PROVISIONS.—Para-  
12          graphs (1), (2), (3), and (5) of subsection (c) shall  
13          apply.

14                “(3) DEDUCTION LIMITATIONS.—Each applica-  
15          ble limitation provided by section 404(a) shall be de-  
16          termined as if all participants in the plan were em-  
17          ployed by a single employer. The amounts contrib-  
18          uted to or under the plan by each employer who  
19          maintains the plan (for the portion of the taxable  
20          year included within a plan year) shall be considered  
21          not to exceed such applicable limitation if the antici-  
22          pated employer contributions for such plan year of  
23          all employers (determined in a reasonable manner  
24          not inconsistent with regulations prescribed by the  
25          Secretary) do not exceed such limitation. If such an-

1        ticipated contributions exceed such limitation, the  
 2        portion of each such employer's contributions which  
 3        is not deductible under section 404 shall be deter-  
 4        mined in accordance with regulations prescribed by  
 5        the Secretary.

6            “(4) ALLOCATIONS.—Allocations of amounts  
 7        under paragraph (3) and subsection (c)(5) among  
 8        the employers maintaining the plan shall not be in-  
 9        consistent with the regulations prescribed for this  
 10       purpose by the Secretary.”.

11        (c) SEPARATE RULES FOR CSEC PLANS.—

12            (1) IN GENERAL.—Paragraph (2) of section  
 13        412(a) of the Internal Revenue Code of 1986 is  
 14        amended by striking “and” at the end of subpara-  
 15        graph (B), by striking the period at the end of sub-  
 16        paragraph (C) and inserting “, and”, and by insert-  
 17        ing at the end thereof the following new subpara-  
 18        graph:

19            “(D) in the case of a CSEC plan, the em-  
 20        ployers make contributions to or under the plan  
 21        for any plan year which, in the aggregate, are  
 22        sufficient to ensure that the plan does not have  
 23        an accumulated funding deficiency under sec-  
 24        tion 433 as of the end of the plan year.”.

1           (2) CONFORMING AMENDMENTS.—Section 412  
2 of such Code is amended—

3           (A) by striking “multiemployer plan” in  
4 paragraph (A) of subsection (a)(2), in clause (i)  
5 of subsection (c)(1)(B), the first place it ap-  
6 pears in clause (i) of subsection (c)(1)(A), and  
7 the last place it appears in paragraph (2) of  
8 subsection (d), and inserting “multiemployer  
9 plan or a CSEC plan”,

10          (B) by striking “430(j)” in paragraph (1)  
11 of subsection (b) and inserting “430(j) or under  
12 section 433(f)”,

13          (C)(i) by striking “and” at the end of  
14 clause (i) of subsection (c)(1)(B),

15          (ii) by striking the period at the end of  
16 clause (ii) of subsection (c)(1)(B) and inserting  
17 “, and”, and

18          (iii) by inserting the following new clause  
19 after clause (ii) of subsection (c)(1)(B):

20               “(iii) in the case of a CSEC plan, the  
21 funding standard account shall be credited  
22 under section 433(b)(3)(C) with the  
23 amount of the waived funding deficiency  
24 and such amount shall be amortized as re-  
25 quired under section 433(b)(2)(C).”,



1 (D) by striking “under paragraph (1)” in  
2 clause (i) of subsection (c)(4)(A) and inserting  
3 “under paragraph (1) or for granting an exten-  
4 sion under section 433(d)”,

5 (E) by striking “waiver under this sub-  
6 section” in subparagraph (B) of subsection  
7 (c)(4) and inserting “waiver under this sub-  
8 section or an extension under 433(d)”,

9 (F) by striking “waiver or modification” in  
10 subclause (I) of subsection (c)(4)(B)(i) and in-  
11 serting “waiver, modification, or extension”,

12 (G) by striking “waivers” in the heading of  
13 subsection (c)(4)(C) and of clause (ii) of sub-  
14 section (c)(4)(C) and inserting “waivers or ex-  
15 tensions”,

16 (H) by striking “section 431(d)” in sub-  
17 paragraph (A) of subsection (c)(7) and in para-  
18 graph (2) of subsection (d) and inserting “sec-  
19 tion 431(d) or section 433(d)”,

20 (I) by striking “and” at the end of sub-  
21 clause (I) of subsection (c)(4)(C)(i) and insert-  
22 ing “or the accumulated funding deficiency  
23 under section 433, whichever is applicable”,

24 (J) by striking “430(e)(2),” in subclause  
25 (II) of subsection (c)(4)(C)(i) and inserting

1 “430(e)(2) or 433(b)(2)(C), whichever is appli-  
2 cable, and”,

3 (K) by adding immediately after subclause  
4 (II) of subsection (c)(4)(C)(i) the following new  
5 subclause:

6 “(III) the total amounts not paid  
7 by reason of an extension in effect  
8 under section 433(d),”, and

9 (L) by striking “for waivers of” in clause  
10 (ii) of subsection (c)(4)(C) and inserting “for  
11 waivers or extensions with respect to”.

12 (3) BENEFIT RESTRICTIONS.—

13 (A) IN GENERAL.—Paragraph (29) of sec-  
14 tion 401(a) of such Code is amended by strik-  
15 ing “multiemployer plan” and inserting “multi-  
16 employer plan or a CSEC plan”.

17 (B) CONFORMING CHANGE.—Subsection  
18 (a) of section 436 of such Code is amended by  
19 striking “single-employer plan” and inserting  
20 “single-employer plan (other than a CSEC  
21 plan)”.

22 (4) BENEFIT INCREASES.—Subparagraph (C)  
23 of section 401(a)(33) of such Code is amended by  
24 striking “multiemployer plans” and inserting “multi-  
25 employer plans or CSEC plans”.

1 (5) LIQUIDITY SHORTFALLS.—

2 (A) IN GENERAL.—Subparagraph (A) of  
3 section 401(a)(32) of such Code is amended by  
4 striking “430(j)(4)” each place it appears and  
5 inserting “430(j)(4) or 433(f)(5)”.

6 (B) PERIOD OF SHORTFALL.—Subpara-  
7 graph (C) of section 401(a)(32) of such Code is  
8 amended by striking “430(j)(3) by reason of  
9 section 430(j)(4)(A) thereof” and inserting  
10 “430(j)(3) or 433(f) by reason of section  
11 430(j)(4)(A) or 433(f)(5), respectively”.

12 (6) DEDUCTION LIMITS.—Subsection (o) of sec-  
13 tion 404 of such Code is amended by adding at the  
14 end the following new paragraph:

15 “(8) CSEC PLANS.—Solely for purposes of this  
16 subsection, a CSEC plan shall be treated as though  
17 section 430 applied to such plan and the minimum  
18 required contribution for any plan year shall be the  
19 amount described in section 412(a)(2)(D).”.

20 (7) SECTION 420.—Paragraph (5) of section  
21 420(e) of such Code is amended by striking “section  
22 430” each place it appears and inserting “sections  
23 430 and 433”.

24 (8) COORDINATION WITH SECTION 4971.—

1           (A) Subsection (a) of section 4971 of such  
2           Code is amended by striking “and” at the end  
3           of paragraph (1), by striking the period at the  
4           end of paragraph (2) and inserting “, and”,  
5           and by adding at the end thereof the following  
6           new paragraph:

7           “(3) in the case of a CSEC plan, 10 percent of  
8           the CSEC accumulated funding deficiency as of the  
9           end of the plan year ending with or within the tax-  
10          able year.”.

11          (B) Subsection (b) of section 4971 of such  
12          Code is amended—

13               (i) by striking “or” at the end of  
14               paragraph (1), by adding “or” at the end  
15               of paragraph (2), and by inserting imme-  
16               diately after paragraph (2) the following  
17               new paragraph:

18               “(3) a tax is imposed under subsection (a)(3)  
19               on any CSEC accumulated funding deficiency and  
20               the CSEC accumulated funding deficiency is not cor-  
21               rected within the taxable period,” and

22               (ii) by striking “minimum required  
23               contributions or accumulated funding defi-  
24               ciency” and inserting “minimum required  
25               contribution, accumulated funding defi-

1                   ciency, or CSEC accumulated funding defi-  
2                   ciency”.

3                   (C) Subsection (c) of section 4971 of such  
4                   Code is amended—

5                   (i) by striking “accumulated funding  
6                   deficiency” each place it appears in para-  
7                   graph (2) and inserting “accumulated  
8                   funding deficiency or CSEC accumulated  
9                   funding deficiency”,

10                  (ii) by striking “accumulated funding  
11                  deficiency or unpaid minimum required  
12                  contribution” each place it appears in  
13                  paragraph (3) and inserting “accumulated  
14                  funding deficiency, CSEC accumulated  
15                  funding deficiency, or unpaid minimum re-  
16                  quired contribution”, and

17                  (iii) by adding at the end the fol-  
18                  lowing new paragraph:

19                  “(5) CSEC ACCUMULATED FUNDING DEFICI-  
20                  ENCY.—The term ‘CSEC accumulated funding de-  
21                  ficiency’ means the accumulated funding deficiency  
22                  determined under section 433.”.

23                  (D) Paragraph (1) of section 4971(d) of  
24                  such Code is amended by striking “accumulated  
25                  funding deficiency or unpaid minimum required

contribution” and inserting “accumulated funding deficiency, CSEC accumulated funding deficiency, or unpaid minimum required contribution”.

(E) Subsection (f) of section 4971 of such Code is amended—

(i) by striking “430(j)(4)” in paragraph (1) and inserting “430(j)(4) or 433(f)”,

(ii) by striking “430(j)” in paragraph (1)(B) and inserting “430(j) or 433(f), whichever is applicable”, and

(iii) by striking “412(m)(5)” in paragraph (3)(A) and inserting “430(j) or 433(f), whichever is applicable”.

(9) EXCISE TAX ON FAILURE TO ADOPT FUNDING RESTORATION PLAN.—Section 4971 of such Code is amended by redesignating subsection (h) as subsection (i), and by inserting after subsection (g) the following new subsection:

“(h) FAILURE OF A CSEC PLAN SPONSOR TO ADOPT FUNDING RESTORATION PLAN.—

“(1) IN GENERAL.—In the case of a CSEC plan that is in funding restoration status (within the meaning of section 433(j)(5)(A)), there is hereby im-

1 posed a tax on the failure of such plan to adopt a  
2 funding restoration plan within the time prescribed  
3 under section 433(j)(3).

4 “(2) AMOUNT OF TAX.—The amount of the tax  
5 imposed under paragraph (1) with respect to any  
6 plan sponsor for any taxable year shall be the  
7 amount equal to \$100 multiplied by the number of  
8 days during the taxable year which are included in  
9 the period beginning on the day following the close  
10 of the 180-day period described in section 433(j)(3)  
11 and ending on the day on which the funding restora-  
12 tion plan is adopted.

13 “(3) WAIVER BY SECRETARY.—In the case of a  
14 failure described in paragraph (1) which the Sec-  
15 retary determines is due to reasonable cause and not  
16 to willful neglect, the Secretary may waive a portion  
17 or all of the tax imposed by such paragraph.

18 “(4) LIABILITY FOR TAX.—The tax imposed by  
19 paragraph (1) shall be paid by the plan sponsor  
20 (within the meaning of section 433(j)(5)(E)).”.

21 (10) REPORTING.—

22 (A) IN GENERAL.—Paragraph (2) of sec-  
23 tion 6059(b) of such Code is amended by strik-  
24 ing “430,” and inserting “430, the accumulated  
25 funding deficiency under section 433,”.

1 (B) ASSUMPTIONS.—Subparagraph (B) of  
 2 section 6059(b)(3) of such Code is amended by  
 3 striking “430(h)(1) or 431(c)(3)” and inserting  
 4 “430(h)(1), 431(c)(3), or 433(c)(3)”.

5 **SEC. 203. ELECTION NOT TO BE TREATED AS A CSEC PLAN.**

6 (a) IN GENERAL.—Section 414(y) of the Internal  
 7 Revenue Code of 1986, as added by section 201, is amend-  
 8 ed by adding at the end the following new paragraph:

9 “(3) ELECTION.—

10 “(A) IN GENERAL.—If a plan falls within  
 11 the definition of a CSEC plan under this sub-  
 12 section (without regard to this paragraph), such  
 13 plan shall be a CSEC plan unless the plan  
 14 sponsor elects not later than the close of the  
 15 first plan year of the plan beginning after De-  
 16 cember 31, 2013, not to be treated as a CSEC  
 17 plan. An election under the preceding sentence  
 18 shall take effect for such plan year and, once  
 19 made, may be revoked only with the consent of  
 20 the Secretary.

21 “(B) SPECIAL RULE.—If a plan described  
 22 in subparagraph (A) is treated as a CSEC plan,  
 23 section 104 of the Pension Protection Act of  
 24 2006, as amended by the Preservation of Ac-  
 25 cess to Care for Medicare Beneficiaries and



1 Pension Relief Act of 2010, shall cease to apply  
2 to such plan as of the first date as of which  
3 such plan is treated as a CSEC plan.”.

4 (b) EFFECTIVE DATE.—The amendment made by  
5 this section shall apply as of the date of enactment of this  
6 Act.

